

# **New borders in the southeastern Europe and their impact on the stability in the region of Central European Initiative (CEI)**

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## **Issues of Migration in the Region in the Context of the EU Enlargement: a Ukrainian Perspective**

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### **Introduction. The East-West European migration in the region: issues and contexts**

International migration is seen as one of the key challenges of the new globalizing world that needs in-depth study, thorough analysis and adequate policies to deal with. The migration pressures from the poor East and South to the wealthy West and North have added to the growing feelings of insecurity in the European Union member states and raised both justified and unjustified concerns among the populations and the governments. Those feelings and concerns, rational and irrational alike, have added to prejudice against and suspicion of “the others” - not only (potential) immigrants, illegal “guest workers” and asylum seekers from outside Europe, but also eastern and southern Europeans, sometimes even including nationals of the states preparing for the accession to the EU. After the euphoria of the newly-achieved freedom of Central and Eastern Europe, brought by the fall of the Berlin Wall and the disintegration of the former Soviet block, began to fade, the migration policies of the EU member states, already strongly unwelcoming to international migration, began to move fast in the direction of stricter measures designed to limit immigration and regulate movement of people from outside the EU, which gave the way to claims that the Berlin Wall could be substituted shortly with a “Schengen Wall” that would keep out not only potential illegal immigrants but also discourage travel and hinder business and culture exchange within a wider Europe.

As the EU enlargement process gains momentum and a number of countries of Central and Eastern Europe are preparing to join the EU and introduce the Schengen regime, it becomes increasingly obvious that neither the EU, not the candidate states are fully prepared for the new situation that will emerge in their relations with the rest of the European continent, i.e., the non-accession countries to the east and south of what will soon become the border of an enlarged European Union. Though readiness to start a meaningful dialogue on the issues of the movement of people from Eastern Europe to Western Europe has been declared by the European Union and individual member states, the issue remains largely underexplored and, therefore, surrounded by myths, assumptions and “guesstimates”. The analysis – and much more so, the implementation – of immigration policies is made even more difficult by the fact that the EU, the accession countries’, as well as East European non-accession countries’ immigration policies themselves are undergoing thorough transformation, and the institutions responsible for their implementation are in flux.

There are three dimensions of the migration dilemma in the region as seen in the context of the EU enlargement. First, while the EU enlargement is seen as an irreversible and generally supported process that may be beneficial to non-accession Eastern European countries as well, the current member states of the European Union are apprehensive of the influx of the mass of immigrants (seen primarily as cheap labour force for the informal sector) from the accession states. The decision to introduce restrictions on free movement of labour force from the would-be new EU member states of Central and Eastern Europe at least till 2011 has given rise to resentment and criticism of the “second-class membership” in the accession states. Second, both the current and the future member states of the EU are anxious about migration from further East, primarily from their

neighbour states – Ukraine, Moldova, Belarus, and the Russian Federation. Hence, the adoption of restrictive immigration and visa policies by the candidate states vis-à-vis their neighbour countries is seen by the official EU as demonstration of their commitment to adhere to the EU policies but perceived by many in the accession states as a move that may hinder their own interests in relations with their neighbour countries – particularly, when shared history and/or substantial economic interests are present. Third, the countries of Central and Eastern Europe, those preparing for membership and those that are not alike, have been donors of migrants to Western Europe themselves and have been used as transit routes of transnational illegal migration and organised trafficking in human beings to Western Europe. Neither of those states is able to counter the challenge of illegal migration alone.

The three countries in focus – Moldova, Romania and Ukraine - have common borders and a number of common challenges in the field of management of migration flows and borders controls that they need to respond to in a cooperative manner. The purpose of this article is to explore some of those challenges from a Ukrainian perspective and suggest solutions that may be useful for dealing with the issues in the context of the EU enlargement. As Ukraine has been seen as one of the key elements of the EU efforts to manage migration flows from and through Eastern Europe, and as the major transit migration route through Moldova and Romania goes through Ukraine, the focus of article is on the Ukrainian case. The article seeks to consider the trends and statistics of westbound migration from Ukraine and of international illegal migration through the Ukrainian territory, and to discuss possible responses to the new challenges that stem from the introduction of visas by the neighbouring applicant countries, tightening of border procedures and the struggle against illegal migration, as well as to formulate proposals for measures to be taken in order to make sure that new arrangements do not hinder cross-border exchange, personal, tourist and business contacts between Ukraine, Moldova and Romania and between Ukraine, the region and the enlarged EU in general.

### **Background: different situations, common problems**

The issue of migration in the area needs to be considered taking into account three different situations of the countries in focus: Moldova, Romania and Ukraine. Romania is preparing to join the European Union and, therefore, its priority is to fulfill the membership requirements, the compliance with the Schengen acquis included. Though most of its resources, capacity and attention are devoted to fulfilling that goal, the country is experiencing substantial difficulties. While fewer Romanians leave the country to settle in Western Europe every year<sup>1</sup>, countering migration through the Romanian territory remains a major challenge. Although Romania concluded readmission agreements with Austria, Benelux, the Czech Republic, France, Germany, Greece, Hungary, India, Italy, Poland, Slovakia, Slovenia, Spain, Sweden and Switzerland, and continued negotiations with Portugal, Finland, Denmark, Estonia, Ukraine, Belarus, China, Bulgaria, Lithuania, Turkey, Latvia, Yugoslavia, Lebanon and Iran, although the Romanian authorities currently apply restrictive visa requirements to nationals of 85 states regarded as major donors of illegal migration<sup>2</sup>, and although an agreement with Moldova regulating mutual

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<sup>1</sup> In 1990, 96,919 Romanians permanently settled abroad, compared to 18,148 in 1994 and 21,635 in 1997, according to the European Parliament report, February 1999.

<sup>2</sup> According to Romanian Mission to the EU, Florin Saghi, Counsellor, August 1998, [http://www.europarl.eu.int/workingpapers/libe/104/romania\\_en.htm](http://www.europarl.eu.int/workingpapers/libe/104/romania_en.htm)

travel of citizens and tightening border controls was signed on June 29, 2001, Romania was the last among the CEE accession states to receive visa-free travel arrangements with the EU<sup>3</sup>. One of the major reasons for that was its slow progress in dealing with migration within and through its territory, and the lack of capacity to ensure proper border management in order to counter the deterioration of the region into an illegal migrants' gateway to the EU and other accession states.

At the end of 1990s, three major trafficking routes went through Romania to Hungary: from Moscow to Chisinau to Hungary, from Moscow to Kyiv to Hungary, and the southern route through Bulgaria and Romania to Hungary.<sup>4</sup> Romania was named by Hungarian experts as one of the major transit routes for trafficking illegal migrants to the West, and Romanians were perceived among major organisers of such criminal operations<sup>5</sup>. Although the Romanian authorities implemented a number of legislative and administrative measures to counter illegal migration and border controls were tightened and modernised within the framework of the PHARE programme, a European Parliament report concluded in February 1999 that “[i]n the field of border control, there seems to be no significant progress, though the problem of illegal immigration is growing” but “the lack of financial resources makes **efficient border controls, and especially the expulsion of illegal immigrants to their country of origin, very difficult.**”<sup>6</sup> “Particular attention should be paid to the borders with Moldova and Ukraine, and the port of Constanza”, the document specified. At some point the Czech Republic even announced it would temporarily suspend its 1991 bilateral agreement with Romania and introduce visa requirements for Romanian citizens as of October 1, 2001, following an increase in the number of Romanian asylum seekers and illegal immigrants in the Czech Republic<sup>7</sup> to over 11% of all asylum seekers and growing at the rate of 30% to 40% a month. Trying to cope, the Romanian government announced emergency measures and introduced new rules for Romanian nationals who wish to travel abroad. They were required to produce proof of medical and car insurance (if travelling by car), a return ticket, and cash or credit cards enough to cover expenses abroad for at least five days. Moreover, the new rules envisaged punishments of up to 10 years in prison for Romanians who commit crimes while abroad and the possible confiscation of the offender's passport for up to five years<sup>8</sup>. A strict “Law on Foreigners” (1998) prohibited Romanians to house foreigners who do not have passports and valid visas and demanded that Romanians who provide housing to foreigners must inform the police of their presence within 48 hours (the term is limited to 24 hours for hotels). The mechanism of presenting a written invitation from a Romanian citizen (or legal person) approved by the Ministry of Internal Affairs was introduced to control the entry of nationals of the countries believed to have “at risk” of supplying illegal immigrants. Romanians who invited such foreigners had to formally declare

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<sup>3</sup> A Regulation of the EU Council of Ministers (539/2001 of 15 March 2001) includes Romania among the countries whose nationals are exempted from the visa obligation when entering EU member states. However, the Regulation also stipulated that the exemption would not enter into force as regards Romania until the Council of Ministers has decided so at a later stage on the basis of a report from the Commission. On September 29, 2001, the European Commission adopted a report that recommended that Romanian citizens should be exempted from the visa obligation from 1 January 2002.

<sup>4</sup> Council of Europe, CDMG, 'Evolution récente des politiques relatives aux migrations et aux migrants', Provisional version, 28 August 1998, p.66

<sup>5</sup> Organized Crime, Drug-related Crime and Illegal Migration in the Central and East European Region. A special report by Gyorgy Csoti (Hungary), NATO International Secretariat, April 14, 1997, <http://www.nato-pa.int/publications/comrep/1997/ap84cce.pdf>.

<sup>6</sup> emphasized as in the original text

<sup>7</sup> Radio Free Europe / Radio Liberty, August 30, 2001

<sup>8</sup> RFE/RL, September 5, 2001

responsibility for expenses during the foreigners' stay in Romania and provide proof of a bank guarantee. The same applied to tourist companies that arranged travel of those foreigners to Romania. The visa still could be denied if an applicant was unable to prove that he/she had enough money for the intended stay in Romania, or based on suspicion that he/she might intend to overstay in the country, or in cases of diseases seen as dangerous for public health, or in the case of criminal records. The measures were criticised as rather controversial from the perspective of respect for human rights, but they have contributed to convincing the EU of Romania's desire to have the visa restrictions for its own citizens lifted. While the EU later decided to lift visa restrictions for Romanians, the Czech measures were not enforced, and the incentives for Romania's nationals to emigrate in search for better living in wealthier countries of the EU have been reduced (though are still present), but the capacity to manage migration through Romania remains insufficient. Struggling to cope with the problem, since the end of 1998 Romania has established and improved information exchange and co-operation with border police units in Belgium, France, Germany, Greece, Bulgaria, the Czech Republic, Hungary, the Slovak Republic, Turkey, Ukraine and the Federal Republic of Yugoslavia and recently announced its commitment to serve as an anchor of stability in the region and a barrier to organised crime.

While similar to Romania in a number of socio-economic aspects, Moldova and Ukraine are generally in a different situation as far as their political relations with the EU are concerned. Both of the countries have Partnership and Cooperation Agreements with the European Union which involves the obligations to pursue reforms and approximation of legislation with that of the EU, and provides for co-operation with the EU in a number of areas, including the justice and home affairs but, unlike Romania's association agreement, does not envisage the prospect of eventual accession to the EU. Both Moldova and Romania have officially voiced aspirations for joining the EU but their chances to be considered by the EU as candidate states in the foreseeable future are marginal. However, both still have high hopes for some sort of "*de facto* membership"<sup>9</sup>, particularly after being invited and having taken part in the European Conference in 2001 to address measures to combat terrorism. Both Ukraine and Moldova are experiencing severe economic and social problems of the half-way transition. Ukraine, due to its size and location, is very important for the security of the enlarging EU, particularly as far as different aspects of the movement of persons and goods through Europe are concerned, but the mixed signals sent by the country's leadership and the slow transformation justify the EU's cautious attitude to the country's declared "strategic goal"<sup>10</sup>. While urging the EU to take into account possible negative consequences of the enlargement for Ukraine and to continue the visa dialogue to prevent "the emergence of new division lines" between Ukraine and the enlarged EU, the government lacks political will to pursue legal demarcation of Ukraine's eastern border, thus making claims for an association status mainly theoretical ones. In Moldova, the Transnistria conflict displaced well over 100,000 people in 1992 and left about 200 kilometres of the eastern border of the country – common with Ukraine – controlled by separatist authorities of the self-proclaimed Transnistrian Republic. The situation creates a major security challenge for the country and the region in general. Both Ukraine and Moldova are seen as donors of sources of insecurity and major transit routes for illegal migration, transborder organised crime, trafficking in human beings, drugs, and

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<sup>9</sup> a definition by State Secretary for European Integration at the Ministry of Foreign Affairs of Ukraine Oleksandr Chaly, *The Day*, #31, November 5, 2001

<sup>10</sup> The Strategy of Integration of Ukraine to the European Union (1998) and the Program of Integration of Ukraine to the European Union (2000) proclaim achieving membership in the EU as Ukraine's strategic goal

smuggling. Both have notoriously “porous” borders and lack adequate policies, material and technical capacity as well as integrity and skills of relevant personnel to respond to the migration and trafficking challenges properly. As the Ukrainian-Polish border becomes increasingly tight for illegal migrants to cross, the incentives to use the still “easier” southern route Ukraine-Moldova-Romania and further to the West and Southwest grow. But illegal migration through the countries’ territories is not the only problem. The three countries are constantly listed by the International Organisation for Migration and other agencies among the countries of origin of large numbers of victims of trafficking in human beings, as well as of traffickers. According to the Ukrainian Ministry of Interior, in the past decade at least 400,000 Ukrainian women had been trafficked, although Ukrainian NGOs and researchers believe the number to be higher<sup>11</sup>. According to the International Organisation for Migration, Moldova, Romania and Ukraine are among the leaders in trafficking in human beings – though accurate figures are unavailable, it is believed that of about 120,000 women sold to sex slavery in Europe in 2000 a major share come from these countries. According to various estimates, up to 45% women trafficked to sex slavery in Europe are Moldovan, and 7-11% are Ukrainian. Ukrainians comprise 56% of women trafficked to Bulgaria, and the share of Moldovans is 36%. 57% of trafficked sex slaves in Albania and 48% in Bosnia and Herzegovina are Moldovans.<sup>12</sup>

As the EU enlargement process takes momentum, both Moldova and Ukraine are trying to avoid negative consequences of adoption of the Schengen regime by their neighbours, but appeal more to “special relationships” (between Moldova and Romania, and between Ukraine and Poland, on the one hand, and Ukraine and Russia, on the other hand), transforming even technical issues of border management into highly politicised dilemmas. Romania seeks to find a balance between “privileged” and “pragmatic” approaches to its relations with Moldova. In April 2001, it announced a plan to introduce passport controls at the border crossing for Moldovan and Ukrainian citizens in an effort to secure its eastern borders and have its own visa requirements to the EU lifted<sup>13</sup> and even agreed to provide half of the amount of \$2.5 million to help Moldova issue new passports to avoid criticism of trying to limit Moldovan citizens' access to Romania. According to Romanian President Ion Iliescu, the passport restrictions were necessary to limit illegal immigration from Transdniestria into Europe, and “[m]oldovans will be free to travel to and from Romania - but without access to [the] Schengen [agreement] space. This will be the case for both Moldova and Ukraine. But Moldova has a much more difficult situation on its border with the Transdniestria zone. Transdniestria has become a hub for arms and drugs trafficking, and for other things.”<sup>14</sup> In less than four months of 2001 alone, Romanian border police turned back some 10,000 illegal immigrants trying to reach Western Europe<sup>15</sup>. According to Alexandru Farcas, a state secretary in Romania's Interior Ministry, the country's border with Moldova has become a regular route for smuggling illegal immigrants into Western Europe: “Almost daily, Romanian border police are confronted with larger or smaller groups of people who attempt illegally to cross the Moldovan border into Romania, helped by professional guides. [They include] people from Afghanistan, Iran, even from some African countries.”<sup>16</sup>

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<sup>11</sup> Trafficking in Migrants Quarterly Bulletin. Special Issue. International Organization for Migration, April 2001

<sup>12</sup> Washington Profile, February 22, 2002. <http://www.washprofile.org/SUBJECTS/Bondmaids.html>

<sup>13</sup> Radio Free Europe / Radio Liberty, May 2, 2001

<sup>14</sup> *ibid.*

<sup>15</sup> RFE/RL, April 25, 2001

<sup>16</sup> *ibid*

On October 19, 2001, prime ministers of Ukraine and Moldova signed the Protocol on exchange of ratification instruments of the Ukrainian-Moldovan treaty on the state borders (signed in August 1999). A round of bilateral consultations on the issues was launched, including the bilateral talks on consular issues in Kyiv on November 29-30, 2001. At the end of 2001, Ukraine and Moldova agreed on a stricter border crossing regime and agreed to control the Ukrainian-Moldovan border jointly<sup>17</sup> but the agreement did not meet support of the authorities of the breakaway Transnistria. The move was seen as very important for facilitating co-operation in border guarding and prevention of illegal migration. Yet, many more efforts, both political and technical, are required to effectively cut down the illegal migration flow along the Ukraine-Moldova-Romania “axis”.

### **The framework: EU migration policies overview**

In order to understand why migration and border management are so high on the agenda of the three countries in focus, it is necessary to consider the attitudes and policies towards those issues in the European Union, relations with which are the top priorities for Moldova, Romania and Ukraine.

The political thinking on costs and benefits of transitional migration in Europe and subsequently in the European Union, and involvement in the processes, evolved from practical non-intervention of the European governments (and, in fact, massive emigration of the population) before the World War I, through the perceptions of immigration as a vehicle of economic reconstruction and an expression of a fundamental right to leave the country that does not offer conditions for one's safe and secure living, to stricter then ever immigration controls and asylum policies that gave rise to criticism of the “Fortress Europe”. While after the World War II Western Europe needed the influx of migrant labour in order to rebuild its ruined economy and admitted about 10 million “guestworkers” from other countries and regions, following the oil crisis of 1973-1974 and related growth in unemployment rates Western European governments began to adopt and implement immigration policies that reflected their populations' suspicion and fear of the “aliens”. The issue of migration to Western Europe was further complicated by the collapse of the Warsaw Pact and, subsequently, of the Soviet Union itself (1989-1991), followed with the opening of western borders of the countries of Central and Eastern Europe and the former USSR, and then the break-up and bloodshed in the former Yugoslavia. Recently, the tragic events of September 11, 2001 and subsequent war on terrorism have brought a new dimension to the issue, and added to the feeling of growing insecurity, sometimes referred to as “the September 11 factor”. Although no documented evidence of direct correlation between international migration and terrorism is available, the implicit linkage has added to the xenophobic perceptions in Western Europe and stimulated the pursuit for collective and effective solutions.

The tightening of immigration controls and perception of migration as a security threat has been based on the assumption that uncontrolled mass immigration may endanger social cohesion, put an additional burden on labour markets and social security systems of countries of the European Union, and challenge their national security. While the right to leave any country including one's own was universally recognised, the possibility to enter another country was questioned and, in fact, deliberately limited. The European Union has repeatedly voiced concern about illegal migration and called for development of a single

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<sup>17</sup> Liga Online, November 9, 2001

European asylum policy to counter the challenge of “asylum shopping”, i.e., multiple application for asylum submitted by the same individual to a number of EU states in the hope that complicated and sometimes contradictory procedures of processing the applications will increase the chances to receive the desired permission to stay in the EU.

Meanwhile, Western Europe continued building an “area of freedom, security and justice” within its frontiers, gradually lifting borders within their populations. Migration within the EU was substantially liberalised by the Treaty of Rome (1957) and further by the provision for free movement of persons introduced by Article 8 of the Single European Act (1986, ratified in 1987) that envisaged the abolition of controls at the internal borders between the EU member states, necessary to facilitate free movement of labour within the common internal market that was expected to be established by December 31, 1992. The Schengen Agreement (1985) provided for gradual abolition of border controls on the common borders of Germany, France, Belgium, the Netherlands and Luxembourg. Subsequently, the Schengen Implementation Agreement (1990) provided for elimination of internal border checks, combined with tightening of the external borders of the EU, as well as the pursuit of a unified visa policy and co-ordinated national asylum policies with regard third country nationals that arrive and stay on the territory of the Schengen member states for up to 90 days. Long-term stay, however, remained subject to regulations by national immigration authorities. A common information system, Schengen Information System (SIS I) was introduced to facilitate information sharing about border crossings. The Schengen Implementation Agreement (1990), and the Dublin Convention on the State Responsible for the Examination of an Asylum Claim (1990, entered into force in 1997) required harmonisation of national asylum policies as they provided that asylum applications of claimants that enter the European Community illegally should be processed in the first EC/EU member state that he/she entered. The readmission agreements with other states were chosen as a mechanism of legitimising deportation of illegal migrants to the territory of the state from which they arrived.

However, individual member states of the European Community in the 1880s and early 1990s perceived the control over their frontiers as one of the key features of national sovereignty. Moreover, there were noticeable differences in historic circumstances, interests and perspectives of the states on specific aspects of immigration and asylum policies. Hence, the EC member states were reluctant to agree to dealing with such sensitive issues at the supranational level and opted for an intergovernmental approach, whereby issues of migration were dealt with by the Ad Hoc Group on Immigration, established in 1986 as a forum for dialogue and interaction between senior officials of the EC member states responsible for migration issues. In 1988, a Group of Coordinators was established by the European Council to facilitate further institutionalisation of efforts to respond to migration-related challenges and to pave the way to a common immigration and visa policy.

A substantial contribution to the building of a common EU immigration policy was made by the 1992 Treaty of the European Union (commonly referred to as the Maastricht Treaty) that called for harmonisation of visa policies, information sharing, taking joint action against illegal immigration and harmonisation of national asylum laws. Seeking to increase control over immigration, both legal and illegal, the EU member states agreed on introduction of stricter visa requirements, tightening the external border “perimeter”, and coordination in dealing with asylum applications. Title VI of the Treaty of the European Union set the objective “to provide citizens with a high level of safety within an area of



freedom, security and justice by developing common action among the Member States in the fields of police and judicial co-operation in criminal matters and by preventing and combating racism and xenophobia”, among other things, by means of countering trafficking in persons. In 1995, Regulation 2317/95 on the implementation of Article 100c of the Maastricht Treaty was adopted by the Council of the EU. The Regulation introduced a list of 101 countries whose citizens needed visas to enter the European Union.

The Treaty of Amsterdam (1997) made a radical step of taking the issues of asylum and migration policies from the authority of individual member states and communitarising them by means of incorporating them in Title IV (Cooperation in the Field of Justice and Home Affairs). The set of rules, regulations and instruments, designed for dealing with issues of movement of persons (visas, asylum, immigration, etc.), collectively referred to as the Schengen *acquis*, was introduced into the community framework. Not only the move reflected dissatisfaction with the deficit of democratic and transparent decision-making in the third pillar, but also responded to the need of the extension of the *acquis communautaire* to the accession states. While the treaty introduced flexibility clauses for Denmark, the United Kingdom and Ireland, this option was not envisaged for the accession states who have to implement the Schengen *acquis* in full before actually joining the EU.

The conclusion of the Europe agreements of the early 1990s and the start of the Central and Eastern European countries’ movement towards the EU membership was followed, on the one hand, with liberalisation of movement of nationals of the CEE states in the EU and, on the other hand, by the tightening of border controls and introduction of immigration restrictions by the CEE states for nationals of the third states and stateless persons. In 1991, the major intergovernmental Conference on the Movement of Persons from Central and Eastern European Countries gathered in Vienna to discuss ways of improvement of border controls and strengthening police co-operation in the fighting against illegal immigration. The implementation of measures in the field of the JHA was included in pre-accession strategies for the CEE states.

Regarded among “safe third states”, the CEE countries were encouraged to sign readmission agreements, seen as one of the mechanisms of fostering immigration control, expulsion of intercepted illegal migrants and rejected asylum claimants. In 1991, a “model” readmission agreement was signed between the five Schengen states (Germany, France, Belgium, the Netherlands, Luxembourg), and Poland. The readmission agreement applied to both Polish and Schengen states’ nationals as well as to nationals of the third countries and stateless persons who arrived to the territory of the Schengen states through the Polish territory<sup>18</sup>, and was followed shortly with the decision to grant visa-free travel to Polish citizens in the Schengen states. That model readmission agreement was later used as the basis for a harmonised approach, formulated in the Draft Council Recommendation on a specimen bilateral readmission agreement between a Member State of the European Union and a Third Country, initiated by Germany and adopted by the Council of Justice and Home Affairs Ministers at the end of 1994. Some more readmission agreements were signed on bilateral basis, including those between Germany and Poland, Germany and the Czech Republic, Austria and Poland, Austria and the former Czechoslovakia. A significant impact was made by the provision under which Germany

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<sup>18</sup> Lavenex, Sandra. Security Threat or Human Right? Conflicting Frames in the Eastern Enlargement of the EU Asylum and Immigration Policies. Robert Schuman Center for Advanced Studies, EUI Working Paper series, RSC # 2000/7

undertook the obligation to provide substantial technical and financial assistance to meet the costs of implementing that agreement. In 1994-1996, Germany was the first to sign a different type of bilateral readmission agreements – with countries seen as donors of illegal immigrants (including Romania, Bulgaria, Bosnia-Herzegovina, the Federal Republic of Yugoslavia, Pakistan, Vietnam, and Algeria)<sup>19</sup>, applicable only to nationals of the parties to the agreements and designed to facilitate deportation of illegal migrants from those countries, but not followed with lifting the visa regime for those countries' nationals.

The Vienna Action Plan, presented by the JHA Council to the December 1998 Vienna Council, placed a common asylum and immigration policy high on the agenda, further developed by the Conclusions of the Tampere EU Council. In May 1999, the Treaty of Amsterdam came into force, signifying the integration of the Schengen acquis into the EU. Two months later the Europol became operational. In October 1999, a special summit on asylum and immigration, held in Tampere, Finland, adopted Presidency Conclusions dealing with the issues of migration, among other issues of justice and home affairs (JHA). As the first step in the common JHA, the summit called for the establishment of joint investigation teams to fight trafficking in human beings and terrorism. The Tampere conclusions also set the framework for the establishment of the Eurojust, a body whose task was to facilitate the co-ordination of national prosecuting authorities and support criminal investigations in cases of organised crime.

The proposals for countering illegal immigration, that have been put on the table by the European Commission since the Treaty of Amsterdam came into force, include a Directive on temporary protection in case of mass influx of displaced persons, a proposal for the creation of a European Refugee Fund<sup>20</sup>, Communications on a common EU migration policy and a common asylum procedure, and a Proposal for a directive on minimum standards for conditions for the reception of asylum-seekers (February 2001). The agreement was also reached to work together towards establishing a Common European Asylum System. In March 2001 the Council of the EU adopted a regulation that introduced the 123-country negative list (or “black list”, as it is called by its critics) that required on all member states of the EU to abolish the practice of visa-free short-stay arrangements with countries of their choice and introduced mandatory visa regime with the listed 123 states. The EURODAC, a system seen as a tool for facilitating the implementation of the Dublin Convention and cutting opportunities for “asylum shopping”, was finally enacted in February 2002. Thus, the issue of management of international migration became one of the key aspects of the “third pillar” of the EU and the capability to co-operate with the EU member states' bodies and institutions on the issue became one of the priorities for the accession states.

### ***Ukraine: a framework for trying to cope with the migration challenge***

The issues of migration from Ukraine to the EU and the candidate states, transit illegal migration through the territory of Ukraine further westwards, and actual as well as possible joint actions (to be) taken by Ukraine, the EU and the candidate states have been high on the agenda of the Ukraine-EU dialogue and bilateral dialogues between Ukraine and individual candidate states that have common borders with Ukraine. Development of sound policies on those issues is demanded both by Ukraine's officially declared strategic

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<sup>19</sup> *ibid.*

<sup>20</sup> established by the Council Decision 2000/596/EC, adopted on September 28, 2000

goal of achieving full membership of the EU and by the political and practical necessity to foster security and stability in the region and counter negative consequences of the emergence of new division lines between members and non-members of the EU enlargement project.

According to Article 33 of the Ukrainian Constitution, freedom of movement, freedom to choose the place of residence and freedom to leave Ukraine are granted to every person who stays legally on the Ukrainian territory. Article 26 of the Constitution stipulates that any foreigner or stateless person who stays in Ukraine legally enjoy the same rights and freedoms (except in cases specified by the Constitution, laws and international agreements to which Ukraine is a party), and may claim asylum. The legal status of refugees and asylum claimants is specified by the law "On Refugees". Within the recent years, Ukraine has developed a visa policy concept, based on individual approaches to different countries, and approved laws "On Citizenship", "On Legal Status of Foreigners", "On the State Border of Ukraine", "On the Border Guard Troops of Ukraine", and "On Operative Investigative Activity".

Since the relations between the EU and Ukraine began to develop, slowly but steadily, in mid-1990s and particularly late 1990s and early 2000s, a number of documents forming the basis for co-operation in the field of managing migration and strengthening border controls have been signed. The Partnership and Cooperation Agreement (PCA) between Ukraine and the EU, signed in 1994 and enacted in 1998, paid substantial attention to co-operation in countering illegal migration and approximation of Ukraine's legislation in the field of migration to the EU standards. The Strategy of Integration of Ukraine to the European Union<sup>21</sup> (June 1998) emphasised that as a result of the EU eastward enlargement will create a common border of the EU and Ukraine and "a principally new geopolitical situation" in the region, but did not mention migration as such. Just a few month later, however, the Program of Integration of Ukraine to the European Union (September 2000) formulated priorities for dealing with international transborder illegal migration and migration (including labour migration) from the territory of Ukraine. The program outlines the needs to be addressed and frames for co-operation with the European Union on the matters of approximation of the Ukrainian migration and asylum legislation to that of the EU, creating conditions for joining the 1951 UN Convention on Refugees and the 1967 Protocol to it. To counter the challenges that stem from illegal immigration and improve its prospects for European integration, Ukraine has created a broad (though still insufficient) legal framework, including the strategy of countering illegal migration, introduced by presidential decrees "On the Complex Program of Fighting Crime for 1996-2000" (September 1996), "The Issue of Immigration Control" (February 1999), and the Program for Fighting Illegal Migration for 1999-2000, the law "On Immigration" (July 2001). However, Ukraine's efforts to counter illegal migration have been hindered by the lack of readmission agreements with countries of origin of illegal migrants and transit states. To cope, in mid-February 2001 the Ukrainian parliament passed a law "On Amending Some Legal Acts of Ukraine for Fighting Illegal Migration", introducing criminal liability for repeated illegal border crossing. Also, the Criminal Code (Article 19) introduced criminal liability for organising or managing trafficking in human beings. The awareness of the need for readmission agreements, however, is present at the level of executive authorities dealing with the issues, as well as the understanding that concluding such agreements with countries to the west of Ukraine only without synchronising the process with concluding similar agreements with its eastern neighbours, primarily Russia

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<sup>21</sup> introduced by the Decree of the President of Ukraine # 615/98 of June 11, 1998

and other CIS member states, may result in transformation of Ukraine from a transit country into a recipient country that will have to deal with the migration pressure on its own. Voicing his concern on the matter, State Secretary for European Integration of the Ministry of Foreign Affairs of Ukraine Oleksandr Chaly stated at the European Conference in Brussels in October 2001 that the strengthening of controls at the EU's external frontiers might cause the transformation of Ukraine into "a country where illegal migration will stay to settle down"<sup>22</sup>. The European Conference approved the decision to provide assistance in dealing with the challenge to countries from which illegal immigrants arrive to the EU. The list of such countries included Poland and the Russian Federation, but not Ukraine<sup>23</sup>.

The proposals for improving the situation in the field of migration and continue the "visas-for-Ukrainians" dialogue with the EU were formally presented as position papers and memoranda to relevant EU bodies: "Position paper for negotiations between Ukraine and the EU on minimising negative impacts connected with the EU enlargement" (early 2001), "Memorandum of Ukraine on concluding an agreement [on co-operation] between Ukraine and the EU in the field of the fight against organised crime" (at the Paris Ukraine-EU Summit on 15 September 2000), and a position paper on "Reflection of the Ukrainian side on a Joint Action Plan on Common Action between Ukraine and the EU in the Area of Justice and Home Affairs" (at the third meeting of the Co-operation Committee between Ukraine and the EC on 18 December 2000).

In January 2001, the President of Ukraine signed a decree "On Measures to Strengthen the Fighting Against Illegal Migration"<sup>24</sup> that approved the Program for the Fighting of Illegal Migration in 2001-2004 and authorised the Ministry of the Interior of Ukraine to act as the co-ordinating body for the efforts designed to counter illegal migration. The Program outlined the key tasks in the area as keeping out illegal migrants who do not formally apply for a refugee status or asylum, cutting transitional channels of illegal migration, countering trafficking in human beings and enhancing immigration controls. By the end of 2001 the Cabinet was to draft amendments to the laws "On the Legal Status of Foreigners" and a number of other related pieces of legislation that would ensure state funding of departure of foreigners who do not possess substantial funds or documents necessary to leave Ukraine, as well as to timely return of foreigners who arrive to Ukraine as students, and provide for responsibility of passenger carriers for transporting illegal migrants to the territory of Ukraine. The decree also ordered establishment of facilities for temporary stay of asylum claimants and detained illegal migrants in the Carpathian region and Kyiv by the end of 2003, and to pursue approximation of the Ukrainian legislation on border control issues and law enforcement in the field of migration with the EU legislation by the end of 2004. Furthermore, the Ministry of Foreign Affairs and the State Border Guard Committee of Ukraine were ordered to "take measures to complete the agreement and legal process of formalising the state border of Ukraine with the Republic of Belarus, the Republic of Moldova and the Russian Federation" by 2003<sup>25</sup>. In order to discourage the creation of opportunities for illegal migration, through mechanisms of joint ventures, tour operators, educational institutions, a number of annual preventive operations have been introduced: "Kordon" ("The Border"), "Rubizh" ("The Barrier"), "Inozemets" ("The Foreigner"), "Migrant" (carried out by the State Border Guard Committee, the Ministry of

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<sup>22</sup> Interfax-Ukraina, October 23, 2001

<sup>23</sup> Kucheruk V. Ostanniy forpost? – Dzerkalo Tyzhnya, October 20, 2001, p.3

<sup>24</sup> Decree #22/2001, signed on January 18, 2001

<sup>25</sup> *ibid.*

the Interior and the Security Service of Ukraine), “Pidpryjemets” (“The Businessman”) (conducted by the State Taxation Administration, the Ministry of Labour, the Ministry of the Interior, the Security Service of Ukraine), “Student” (carried out by the Ministry of Education of Ukraine, the Ministry of the Interior, the State Border Guard Committee, the Security Service of Ukraine), “Tourist” (carried out by the State Committee for Youth, Sports and Tourism, the Ministry of the Interior, the State Border Guard Committee, the Security Service of Ukraine), and “Magistral” (“The Highway”) (conducted by the Ministry of Transport, the Ministry of the Interior, the State Border Guard Committee, the Security Service of Ukraine, the State Customs Service). However, the variety of tasks and the diversity of the agencies involved (particularly given the lack of coordination and information exchange between them) give reason for well-founded doubts about effectiveness of such operations. So far the results of operations of the kind have been limited. According to Minister of the Interior of Ukraine Yuri Smirnov, the measures, undertaken by the militia and the border guards, designed to reduce the flow of illegal migrants to Ukraine, so far have brought no tangible results. The illegals enter Ukraine without much trouble through the eastern border and equally easily reach the eastern border of the country.”<sup>26</sup>

On June 7, 2001, 351 out of 450 members of the Ukrainian parliament voted in favour of the law “On Immigration” that provided for introduction of an annual immigration quota (to be specified by the government) and for the establishment of a single national executive agency for migration. In early July the law was signed by the president of Ukraine and came into force one month later. The new law allowed legalisation of immigration status of a number of foreigners and stateless persons, for instance, those who arrived to Ukraine before March 6, 1998 under the April 1981 agreement between the USSR and Vietnam for professional training and work, or refugees from Abkhazia (Georgia) who have lived in Ukraine for at least five years. To qualify for immigration, such persons will have to apply for it within six months since the enacting of the new immigration law. Immigration will also be open for officially registered refugees, their parents, spouses and children under 18 who have lived in Ukraine for at least three years. Yet, positive effect of these measures so far have appeared to be limited by the scope of the problem as well as by the lack of adequate response to related challenges.

The prospect for major improvement was opened by the commitment to develop the Joint Action Plan in the field of JHA and enhance co-operation in the field, stressed in the Conclusions of the EU-Ukraine summit in Yalta in September 2001. The Joint Action Plan, adopted at the end of 2001, identified as top priorities the negotiations of a readmission agreement, strengthening of management of borders and development of border infrastructure, establishment of a State Migration Service of Ukraine, addressing issues of immigration, co-operation in combating illegal immigration to the EU through Ukraine, trafficking in human beings, organised crime and terrorism<sup>27</sup> and committed to consider the impact of the EU enlargement on the region and continuation of the dialogue on visa issues. The tasks and the commitment to pursue them were reconfirmed by the 5<sup>th</sup> meeting of the Cooperation Council between the EU and Ukraine on March 11, 2002.

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<sup>26</sup> Sokhar O. Chervona knyha ukrainskoho peremytnytstva. – Polytika i Kultura, October 31, 2001, p.15

<sup>27</sup> Press release 7026/02 (Presse 64), Brussels, March 11, 2002

## **Ukraine as a transit country: Illegal migration through the territory of Ukraine to countries of the EU**

For a variety of reasons, Ukrainian officials like to emphasise that Ukraine is pivotal for European security and stability and stress its “keystone” geopolitical position in the heart of the European continent. Depending on the context, Ukraine has been described either as a “bridge” or a “buffer” between the enlarging European Union and the rest of the “wider Europe” and territories farther to the east. As far as the migration issues are concerned, geography matters: Ukraine has been particularly attractive as a convenient (and one of the shortest) route to Western Europe, the destination of international illegal migrants.

The state border of Ukraine include 4,247.86 km of the land sector, 1,414.73 km of the river sector and 1,351.6 km of the sea line, including the 1,971.6-km border with the Russian Federation, 1,222-km border with Moldova, 1,084.2-km border with Belarus, 608.6-km border with Romania, 542.3-km border with Poland, 135.1 km-border with Hungary, and 98.7-km border with Slovakia.<sup>28</sup> The funding of the Border Guard Troops is provided at the more than modest (and obviously insufficient) level of about US\$ 50 million a year. That border line is protected by 38,000 border guard troops of the State Border Guard Committee. Less than 6,000 border guard troops protect the longest common border of Ukraine with another state – almost 2,000 km of a still virtual border with the Russian Federation, though that number of troops is likely to be increased shortly by almost 2.5 times as the border guard troops are moved from the western to the eastern frontiers of the country<sup>29</sup>. Meanwhile, it is the eastern sector of the Ukrainian border and the Ukrainian-Moldovan border that are seen as critical for countering “new security challenges”, i.e., illegal immigration, drug trafficking, smuggling of weapons and illicit substances. Neither of those sectors of the border is officially demarcated, and for political reasons there are serious doubts if Ukrainian-Russian border will be demarcated in the foreseeable future. It is estimated that about 30 million foreigners cross the borders of Ukraine every year. In 1991-2001, 560 million border crossings had been registered. The border guard troops had prevented 182,000 illegal border crossings, apprehended 85,000 illegal immigrants, mainly from Afghanistan (32% of the whole number of the apprehended illegal immigrants), India (25%), Vietnam (13%), Iraq (8%), Bangladesh (6%), China (4%), Pakistan (3%) and Sri Lanka (3%)<sup>30</sup>. The numbers of illegal migrants, apprehended at the Ukrainian state border, increased dramatically from 148 in 1991 and 789 in 1992 to as many as 9,086 in 1993, 11,443 in 1994, with a decline to 9,790 in 1995 and 7,224 in 1996, then a rapid increase to 10,776 in 1997, 11,744 in 1998, 14,646 in 1999, and the drop to 5,422 in 2000 and further decrease to 4,621 in 2001<sup>31</sup>. The decrease occurred, presumably, due to the improved border management and migration control. While most of those migrations have occurred through the Ukrainian-Russian border, new transit channels –through the territories of Belarus and Moldova - have emerged, as the efforts to tighten the control at the Ukrainian-Russian border began to be taken. About 70% of the illegal immigrants were apprehended when attempting to cross the western

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<sup>28</sup> Border Guarding in Ukraine: Future Perspectives. Presentation of the State Program of Action Aimed at Maintaining the Regime of the State Border, Frontier Regime, and Development of Border Guard Troops of Ukraine for the period up to 2005. Brussels, 2002

<sup>29</sup> According to Sergei Goncharov of the Center for Assessment of Political Risks, for the Kievski Telegraph daily

<sup>30</sup> Border Guarding in Ukraine: Future Perspectives. Presentation of the State Program of Action Aimed at Maintaining the Regime of the State Border, Frontier Regime, and Development of Border Guard Troops of Ukraine for the period up to 2005. Brussels, 2002

<sup>31</sup> *ibid.*

border of Ukraine. More than 80% of them still stay on the territory of Ukraine, as Ukraine does not have readmission agreements with their countries of origin and the government lacks funds for their deportation. Since 1998, over 138 thousand illegal migrants, apprehended on the territory of Ukraine, have not been deported because of the lack of funding for the deportation procedures<sup>32</sup>. The official figures reflect only a small proportion of the real number of illegal migrants on the territory of Ukraine (like on a territory of any other country), as real figures are practically impossible to give. The difference between official statistics of migration and the real figures emerge because the border guard troops count only apprehended illegal migrants ("violators of the border"), while the data provided by the Ministry of Interior reflect the number of protocols and fines imposed on foreigners who have been found to be living in this country illegally. Unlike in the legislation of most of European states, until the recent adoption of the Criminal Code trafficking in human beings had not been seen as criminal offence. Moreover, only slightly over a decade ago, before the collapse of the USSR, the problem of illegal migration through that country did not exist; hence, there were no state policy and institutions for dealing with the challenge.

Presenting the draft law "On Immigration" to the Ukrainian parliament, Verkhovna Rada, in November 2000, official representative of President Kuchma in the parliament Roman Bezsmertnyi argued that both immigration to Ukraine and transit migration through the Ukrainian territory had been growing rapidly. According to various data, the estimated number of illegal migrants from countries of Asia and Africa in the territory of Ukraine exceeds 100,000 persons. However, the figure, currently available from the border guard and security services, reflects only the number of detained illegal migrants. According to Bezsmertnyi, the number of applications for Ukrainian citizenship increased from 5,763 in 1994 to 72,797 in 1999. However, the number of claimants of citizenship, asylum or permanent residence permits is not the principle matter of concern. To date, only about 3,000 persons, over 1,600 of them from Afghanistan, have a formal refugee status. Rather, the problem is the spread of illegal immigration and transit migration, and related challenges. According to Bezsmertnyi, at least 1,6 million illegal migrants had stayed on the territory of Ukraine. The costs for the Ukrainian budget, related to the presence of more than 85,000 apprehended illegal migrants, is at least US\$ 300 million a year - a substantial amount of money for a country like Ukraine. In 1999-2000, illegal migrants on the Ukrainian territory became victims of 4,742 crimes and committed 1,240 crimes<sup>33</sup>. Trafficking in human beings had grown into a leading "specialisation" for the Ukrainian organised crime and the third most profitable activity after drug dealing and sales of stolen cars. An average cost of transporting an illegal migrant from a Middle East country to Western Europe through Ukraine is about \$6,000.

What are the reasons for transformation of international migration into one of the key issues for Ukraine in its relations with its neighbour states and Western Europe, particularly in the context of the EU enlargement? There are a number of objective and subjective, internal and external factors that make Ukraine an attractive transit route: its convenient geographical location, the disintegration of the "Iron Curtain" combined with the lack of well-guarded borders, its lax migration policy vis-à-vis a number of countries of the former USSR that enable almost unrestricted movement of those countries' nationals in vast territories from the Far East to the eastern borders of Poland, Hungary, Romania and Slovakia, loop-holes in the legislation, as well as a huge shadow sector of

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<sup>32</sup> Zubar M., Fomin O. Zelenyi kordon Ukrainy. – Den, February 16, 2001, p.2

<sup>33</sup> \*\*\*\*\*

the economy, massive impoverishment of the population, in combination with the absence of conflicts and generally tolerant attitude to foreigners in the Ukrainian society. Internal factors that further complicate dealing with the illegal migration challenge include the lack of coordination of actions of seven ministries and agencies that are in charge of countering illegal migration<sup>34</sup>, inadequate visa policy and the lack of clear rules of the stay of foreigners on the territory of Ukraine, technical deterioration of outdated border protection and control infrastructure and equipment, lack of resources for dealing with apprehended illegal migrants, and widespread corruption among border guards, the policy, customs officers<sup>35</sup>. The external factors include, in addition to the geographical location, the lack of readmission agreements with countries from which illegal immigrants arrive to Ukraine and the lack of practical co-operation in the field of JHA with the EU and the accession states.

The costs of the failure to manage international migration properly and counter illegal migration to and through Ukraine effectively are high. While the current migration pressure on Ukraine cannot be compared with that on Western Europe, where the estimated 20-fold increase in immigration within the past decade has forced governments and the EU in general to address the unemployment problem and take measures to prevent intolerance and ethnicity-based conflicts, in the long run the inability to cope with the challenge will be damaging for Ukraine's and the region's security. According to head of the national bureau of the Interpol in Ukraine V. Radetsky, the number of immigrants in the country, both legal and illegal, is about one million<sup>36</sup>. Illegal migration as a kind of organised crime tend to grow and specialise, contributing to the increase of crime and involvement of broader segments of the Ukrainian society, particularly in the border regions, in criminal activities. For a vast number of residents of the border regions of Ukraine, as well as for their "counterparts" across the Ukrainian-Russian and Ukrainian-Moldovan border, illegal migration, trafficking in human beings and smuggling has become the main source of income. According to Ukrainian security experts, a highly efficient transnational system of management of illegal migration flows has been formed.

The complexity of the challenges faced by Ukraine, the lack of unbiased information and capacity to counter the challenges effectively, have provoked a specific "side effect". While accurate data about correlation between illegal migration, organised crime and drug trafficking are unavailable, Ukrainian law enforcement authorities often tend to link the three phenomena in their public statements, thus, adding to increasing prejudice to representatives of "other" ethnic groups and countries in the Ukrainian society. The concern has affected Ukraine's visa policy. As fighting illegal migration was identified as a key national security concern, in 2000 the number of visas issued by Ukraine to citizens of countries regarded as potential donors of illegal migrants - Angola, Afghanistan, Bangladesh, Vietnam, Ghana, India, Jordan, Iraq, Iran, the Democratic Republic of Congo, China, Lebanon, Libya, Morocco, Nigeria, Pakistan, Syria, Somalia, and Sri Lanka - was radically reduced. In January-June 2000 about 149,000 Ukrainian visas were issued, almost 90% of them to citizens of European countries, the USA and Canada<sup>37</sup>.

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<sup>34</sup> Ministry of the Interior, the State Border Guard Committee, the Ministry of Foreign Affairs, the Security Service of Ukraine, the State Committee for Nationalities and Migration, the Ministry of Labour and Social Policy, the State Customs Service; the presidential decree "On Measures to Strengthen the Fighting against Illegal Migration" (January 18, 2001) authorized the Ministry of the Interior to be the coordinating body

<sup>35</sup> Ukrainian Center for Economic and Political Studies (UCEPS). - National Security and Defense, #11 (23), 2001, p.24

<sup>36</sup> Zakon i Biznes, August 19, 2000, p. 28

<sup>37</sup> Liga Online, July 26, 2000



Ukrainians themselves are affected by growing xenophobia in the EU and the candidate states where public apprehension of the influx of cheap labour, potential instability and effects of increasing heterogeneity of the population on national identity are on the rise. The reason for concern seems to be obvious: it is estimated that some 500 thousand illegal immigrants arrived to the EU states in 2000, compared to about 40 thousand in 1993. Ukraine is seen as one of the key transit territories: some 60-70% of illegal migrants are reported to arrive to countries of Western Europe through it. As the western border of Ukraine becomes "harder" with the adoption of the Schengen rules by the candidate countries that border on Ukraine and the "porosity" of Ukraine's eastern and northern borders remains, thousands of illegal migrants are likely to stay on the Ukrainian territory. Since the situation in countries that are among leading donors of illegal migration is unlikely to improve fast, the challenge, created by illegal migration, as well as related challenges of organised crime, trafficking in human beings and drugs, are likely to remain among the main points of concern for Ukraine as well as for the EU.

### **Ukraine as a source of migrant labour**

Transit illegal migration through the Ukrainian territory is not the only matter of concern and the reason why Ukraine is included in the "black list" of countries for which the procedure of obtaining a EU visa is particularly strict. There is also a problem of illegal labour migration from Ukraine to countries of the EU and Central and Eastern Europe. Unlike migrants from the East and South who come from countries shaken by wars, forced by poverty and overpopulation, and, hence, regarded as most likely asylum seekers, migrants from Ukraine (and, in most of cases, from Moldova) usually enter countries of the EU and CEE as tourists but then get undocumented employment in the informal sector of the host countries' economies. Such "tourist workers" constitute the predominant majority of Ukrainians who cross the country's western border. While according to the official statistics only about 28,200 Ukrainian citizens worked abroad in 1999<sup>38</sup>, it has been estimated that up to 200,000 (and, according to some estimates, even up to 800,000) Ukrainians work illegally in Poland<sup>39</sup>, about 10,000 in Hungary<sup>40</sup>, and about 50,000 in Slovakia. In addition to 17,500 Ukrainian citizens who have working permits in the Czech republic, about 100,000 work there illegally<sup>41</sup>. Similarly, in addition to 8,000 Ukrainians who hold formal permits to work in Italy, over 120 thousand Ukrainians stay in that country illegally<sup>42</sup>. Currently Ukrainian diplomats are negotiating with Italian counterparts the possibility of "legalising" some of Ukrainians presently in that country as a part of Italy's annual 185-thousand immigration quota in exchange for an agreement to return the illegal migrants to Ukraine. Of 303 thousand registered immigrants in Portugal, there are at least 80 thousand Ukrainian labour migrants. The real figure, however, is about three times higher, as many of Ukrainians work in the country illegally.<sup>43</sup> Due to poor economic condition and slow pace of transformation, Ukraine is likely to remain a potential risk to the EU as a donor of illegal labour migrants and a transit area for organised crime. Illegal labour migration of Ukrainian citizens creates tension in Ukraine's relations with the EU

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<sup>38</sup> as quoted in the Program of Integration of Ukraine to the European Union, September 14, 2000

<sup>39</sup> Krystyna Iglicka and Keith Sword, (eds.), *The Challenge of East-West Migration for Poland*. Houndmills and London: Macmillan, 1999

<sup>40</sup> Pavliuk Oleksandr, *Ukraine and the EU: The Risk of Being Excluded*, in: Iris Kempe (ed.), *Beyond EU Enlargement*, Volume 1. – Bertelsmann Foundation Publishers, p.77

<sup>41</sup> *Holos Ukrainy*, August 4, 2000

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members and the applicant countries. The influx of cheap labour from Ukraine causes not only concern of the authorities of the EU states but also protests of local trade unions. For instance, in August, 2001, the General Union of Workers of Spain demanded from the national Government to put an end to the activity of companies engaged in employment of illegal immigrants from Ukraine<sup>44</sup>.

The need to cope with the issues remain a high priority for Ukraine and the European Union. It is clear, however, that defensive measures alone taken by the EU member states and the candidate states will not prevent illegal employment of Ukrainian citizens on their soil. Alone, Ukraine will be unable to promptly cope with the task of radical reduction of the unemployment rate and significant decrease of the living standards of the population in order to reduce the incentives to emigrate, and simultaneously serve as a barrier to illegal migration to the EU. Long-term effective solutions are only possible if elaborated and pursued jointly by Ukraine, the EU and the accession states in question, and accompanied with general efforts targeted at improving Ukraine's economic conditions, creation of jobs and other incentives to stay. Unless urgent and adequate measures are taken, the supply of illegal labour force from Ukraine and illegal migration through Ukraine will continue to exist, encouraged by the demand for it on the part of the shadow sector of economy in the EU countries.

To address the issue of managing labour migration from Ukraine and social protection of its citizens, Ukraine has already made relevant agreements with some countries (Latvia, Poland, Slovakia, the Czech Republic), and entered into negotiations with other candidate states. The EU enlargement raises the issue of an agreement with the EU about the preservation of those agreements in an acceptable format. Ukraine is a party to 12 multilateral agreements on labour and social security issues within the Commonwealth of Independent States (CIS). The labour migration legislation includes two bilateral agreements on mutual social security guarantees – with Spain and Latvia, and 17 intergovernmental agreements in the pension sphere, labour and social security – with Azerbaijan, Belarus, Armenia, Vietnam, Georgia, Estonia, Latvia, Lithuania, Moldova, Poland, Russia, Slovakia, and the Czech Republic. As the EU enlargement takes place, the agreements with the accession countries will be made void, thus, leaving a substantial legislation gap in the field of regulation of migrant labour.

The steps that need to be made in managing labour migration from Ukraine to the EU and the accession states should include official recognition of the fact of the existence of both supply of Ukrainian migrant labour and demand for it abroad by the Ukrainian authorities and authorities of the EU member states and the accession states. The tasks to be accomplished for effective management of the process should include joining Articles 18 and 19 of the European Social Charter and approximation of Ukraine's labour migration legislation to that of the EU.

The demand for the immigrant labour in the European states should also be recognised and reflected in relevant agreements and mechanisms - possibly, quotas for labour immigration of professionals having specific skills that are required in the European labour markets at a given time. While there are about 15 million unemployed in the EU now, there is a desperate need for skilled labour in some sectors, primarily the information technologies, as well as for unskilled labour in services that are not attractive for the EU nationals. Demographers predict that the EU population will reach its high at 376.5 million by 2005

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<sup>44</sup> Den, August 11, 2001, p.1

but will decline by 14% over the next 50 years to 311 million during that period. Without immigration Spain will lose 9.4 million people and Italy will lose 16 million<sup>45</sup>. The ageing of population will add to the need to attract migrant labour to maintain the welfare state. It is estimated that by 2050 the number of senior citizens aged over 65 will reach 28% of the population of Germany, 37% of the population of Spain, and 34% of the population of Greece, and the number of the EU population of working age will decrease by 30%. Nowadays, in Germany, Finland, Belgium, Italy and Austria, more than 30% of the labour force are at least 50 years old. In order to cope with the challenge of the ageing labour force and to keep the working age population constant, the EU will need to admit 79.6 million immigrants within the next 50 years or 1.4 million per year<sup>46</sup>. In this situation the adoption of sound labour migration and general immigration policies is a political decision that needs to be taken to secure long-term sustainable economic growth. Hence, there is a broad field for a constructive dialogue on the matter with the EU for the countries like Ukraine and Moldova.

### **The visa regime dilemma**

It seems to be generally recognised that a visa regime itself does not serve as a credible and effective deterrent for illegal immigration and a barrier for terrorism, transnational organised crime, particularly smuggling and trafficking. The example of one of the September 11 terrorists having his visa application approved some time after the terrorist attack, shows how irrelevant the visa procedure is in such cases. While obtaining a visa has been a much-debated complication for exchange and travel of people, it has never been effective enough to halt illegal immigration – there are no data available that would show correlation between rejected visa applications and decreased illegal migration figures. Besides, the text of the Schengen agreement does not stipulate that severe visa restrictions should be imposed on nationals of any state.

Currently Ukrainian citizens can travel visa-free to 15 countries: ten countries of the CIS (except Turkmenistan), Mongolia and three EU accession states - Poland, Hungary and Romania. The Baltic states introduced visa procedures for Ukraine in early 1990s. The visa regime, introduced by the Czech Republic and Slovakia in the summer of 2000, showed potential negative consequences for exchange between those countries and Ukraine. For instance, in 2000, the Transcarpathian, Lviv and Chernivtsi regions accounted for 43.3% of foreign travel, as a significant part of the population of those regions is engaged in crossborder “commercial tourism”<sup>47</sup>. The number of trips of Ukrainian citizens to Slovakia in 2000 fell almost two-fold against 1999, and even greater – in the first half of 2001. The flow from Slovakia to Ukraine also became scantier (104,000 in 1999, 70,600 in 2000, 20,600 in the first half of 2001)<sup>48</sup>. In order to cope with the new challenge, on March 1, 2001, Ukraine and Slovakia introduced a simplified visa regime that involved issuing free visas for up to 180 days to a number of categories of

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<sup>45</sup> European Migration and Refugee Policy: New Developments. A report by Chris Whitwell on the International Seminar for Experts organised in the series Great Debates by the Cicero Foundation,

Paris, 15-16 February, 2001

<sup>46</sup> *ibid*

<sup>47</sup> Ukrainian Center for Economic and Political Studies (UCEPS). - National Security and Defense, #11 (23), 2001, p.25

<sup>48</sup> *ibid*.

professionals, children and students, and half-price visas for individuals travelling within bilateral cultural exchange programs. Similar arrangements, as well as provisions for multiple affordable visas for frequent travellers and some other selected categories, and special arrangements for the population of the border areas have been discussed since then as possible solutions for the situations when the would-be new EU member states – Poland, Hungary, and, at some point, Romania, will have to impose visas on nationals of Ukraine and Moldova. In 2001, the increase in the number of qualified staff at Slovak consulates also had a positive effect and served as an illustration of the importance of effective bureaucracy at the consulates and border crossing points as a way to soften the shock of the introduction of new visa regimes. Similarly, following the EU's decision to move Bulgaria to the "white list" of states, Bulgaria announced the decision to impose visas on Ukrainians from June 2001 onwards, but shortly chose to postpone the step till October and make the visa regime as liberal and efficient as possible, due to consideration of potential damaging effect that the reduction of the number of Ukrainian tourists coming to Bulgaria could have on the country's tourist industry. Bulgaria imposed visas on Ukrainians in October 2001, but at the introduction of visas, the ethnic composition of the Ukrainian population was not duly taken into account. For instance, the Association of the national-cultural communities of Bulgarians of Ukraine lodged protest with the Bulgarian leadership that, in their opinion, it had not taken into account the interests of 300 thousand ethnic Bulgarians living in Ukraine<sup>49</sup>. Noteworthy, in addition to the lengthy procedure of obtaining a visa, the visas introduced by the accession states (\$53 for Bulgaria, \$27 for Slovakia, \$28 for the Czech Republic) are more expensive than the Schengen visas – often too expensive for most of Ukrainians.

So far Poland and Hungary have decided to postpone introduction of visas for Ukrainians, and Romania is likely to delay for as long as possible the introduction of visas for Moldovans, but they will have to introduce visas to comply with the accession requirements. The introduction of visas for Ukrainians by Poland will have a particularly strong effect on Ukrainians, both economically and psychologically. About 4,43 million Ukrainians visited Poland and about 927,500 visited Hungary in 2000 (as compared to 120,500 who visited Romania and 74,100 who visited Bulgaria)<sup>50</sup>.

The Ukrainian authorities urge the EU to take into account possible negative implications of introduction of visa regimes with Ukraine by the accession states and call for "minimisation of the negative effects of the introduction of visa procedures and toughening of border control for Ukrainian citizens"<sup>51</sup>, arguing that the Ukraine – EU visa dialogue "should rest, first and foremost, on the harmonisation of the internal social and political situation in Ukraine with the EU standards". Yet, besides the expressed commitment to continue the dialogue, there is a risk that the search for credible options, acceptable for all of the decision-making parties involved will be far from complete by the time Poland and Hungary will have to introduce visa regimes before joining the EU by the end of 2003.

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<sup>49</sup> Ukrainskie bolgary trebujut besplatnye visy dlja poseshchenija istoricheskoj rodiny. – Forum, October 5, 2001

<sup>50</sup> Ukrainian Center for Economic and Political Studies (UCEPS). - National Security and Defense, #11 (23), 2001, p.26

<sup>51</sup> ibid

## **Dealing with migration challenge in the region: some recommendations and conclusions**

Notwithstanding the efforts to reduce the gap between secure and wealthy North and poor and conflict-shaken South, assistance and investment in the economies of the third world countries will not have an immediate effect of resolving the pressure to migrate; hence, the problem will remain for many years to come. Similarly, non-accession countries of Eastern and Southern Europe will be experiencing difficulties of their slow transition and, hence, the migration incentives for their populations will remain. Therefore, the Ukraine-Moldova-Romania area is likely to continue experiencing strong migration pressures and struggle to respond to them in an adequate manner.

Dealing with the issues of migration in the region in the context of the EU enlargement and adoption of the Schengen acquis by the candidate states requires solutions in two main areas: (1) streamlining visa and immigration policies of the European Union and the candidate states towards citizens of Ukraine and Moldova who seek to enter the EU and the candidate states legally; (2) co-operation between the European Union, the candidate states, Ukraine and Moldova in combating westward illegal migration through/from the territories of Ukraine and Moldova.

The enlargement creates a fundamentally new situation on the European continent and draws the borders of the European Union immediately to the boundaries of Ukraine, affecting everyday lives of hundreds of millions of people. According to the State Committee of Ukraine for the State Border Protection, at the Polish-Ukrainian border alone, about 10 million border crossings are registered every year. The cross-border contacts and trade have created hundreds thousands of jobs at both sides of the border. The introduction of visas by the accession states will discourage millions of Ukrainian and Moldovan citizens who wish to travel abroad for tourism or business purposes, but will hardly deter thousands of illegal immigrants and organised traffickers in human beings. Furthermore, without comprehensive solutions that would address problems in Ukraine and Moldova, the tight western borders and the visa regime of an enlarged EU may shift a great deal of the burden of the migration-related problems on these two countries and create additional challenges to their security and stability – which, in their turn, will create risks for the broader European security.

Ukraine and Moldova are eager to continue and expand the dialogue with the EU. However, the ambitious objectives, like those set out in the Program of Integration of Ukraine to the European Union, remain largely unfulfilled, as in addition to the factors described in the previous paragraphs of this paper, Ukraine's and Moldova's efforts to counter illegal migration and manage legal movement of people require coherent policies and implementation mechanisms, which, in their turn involve introduction of new institution, training of personnel, technical re-equipment and information support. The factors, obviously, are not unique for these two countries: they challenge implementation of sound migration policies and border management by other transition states as well as by some of the EU candidate states. Therefore, viable solutions are necessary for resolving the dilemmas of migration. Similarly, as it is unlikely that the European Union will agree to waive visa restrictions for Ukrainians in the short-to-medium term (i.e., by 2007), a number of steps can and should be taken by all the parties involved (i.e., the EU, Ukraine and the accession countries, Romania included) to continue the dialogue and "civilise" that lengthy and cumbersome procedure. The conditions for taking those steps will include

developing a common framework for joining efforts of bringing Ukraine's own visa policy in line with the EU's stringent Schengen border regime.

Such a common framework should include elements of co-operation in the field of justice and home affairs that are incorporated in the Partnership and Cooperation Agreement between the EU and Ukraine, the Partnership and Cooperation Agreement between the EU and Moldova, accession partnerships between the EU and the candidate states that have a common border with Ukraine, the Stability Pact for South Eastern Europe, and the Joint Action Plan in the field of the JHA between the EU and Ukraine. Such a common framework should involve development and implementation of a joint multilateral program of countering illegal migration in the region under the auspices of the European Union, the International Organisation for Migration (in which Ukraine holds an observer status since 1993 and which it should join as soon as possible to improve its capacity of dealing with the issue), and more broadly, the UN, and the OSCE. Recently, the International Organisation for Migration has carried out a series of pilot projects on “Immigration Control and Management of the Common Border” at the Ukrainian-Moldovan, Ukrainian-Russian and the Ukrainian-Belarusian parts of the border. While the sustainable results and critical changes in the quality of border protection and migration management are too early to expect, the projects may be seen as examples of a positive approach to dealing with the issue. IOM representatives from Bulgaria, Macedonia and Romania took part in the 4th regional meeting organised by the Southeast European Cooperative Initiative (SECI) counter trafficking task force in Bucharest. The meeting brought together representatives from Albania, Bulgaria, Macedonia, Greece, Hungary, Moldova, Romania, Turkey, France, Germany, Italy, the US and Ukraine in order to work on a plan of action to combat trafficking and smuggling in human beings. The plan involves exchange of information between relevant agencies of the participating states, coordinated common investigations against criminal groups engaged in trafficking and smuggling, as well as co-operative measures to insure the identification and safe repatriation of victims to their country of origin. The involvement of local, national and international NGOs, policy networks and experts is another element seen as critical for launching such a comprehensive multilateral effort and a broad awareness raising campaign.

Responding to the complex challenge of countering illegal migration and optimising control of migration flows to the requirements of the Schengen acquis requires joint action and coordination of efforts of all relevant agencies and concentration of management of the migration issues within one agency. At the policy level, there is a need for a national migration policy that would take into account Ukraine's situation in the changing Europe and build on achievements of relevant Ukrainian agencies and institutions in countries of Central and Eastern Europe and the EU. A comprehensive migration policy needs to involve co-operation with relevant EU agencies responsible for the implementation of the Schengen acquis and transfer of experience through twinning programs. Technical provisions for improving the efficacy of such a migration policy shall include modernisation of the border infrastructure, installation of adequate computer technology and personnel training.

Exchange of information on migration between Ukraine, Moldova, Romania and CEE and the EU states could serve as an initial step towards development of such co-operation and creation of a single computerised database. While reservations about sharing such information between EU and non-EU states may be justified in terms of possible leakage of such information due to corruption of individual officers who may have access to such data, there is a need to strengthen trust-building measures to minimise such possibilities and proceed with information sharing. Setting up common border crossing checkpoints may be useful for increasing trust and transferring skills of effective border control.

Effective border management and control of the movement of migrants through the territory of Ukraine require development of an up-to-date database on all visas issued to citizens of countries that are considered to be potential donors of illegal migrants, the movement of stateless persons to or through the territory of Ukraine, as well as information about all border crossings by citizens of countries that do not require visas to enter Ukraine, particularly of countries and regions of the former Soviet Union where conflicts and deteriorating standards of living create incentives for emigration. The list of countries with substantial incentives for emigration and/or a record of high emigration statistics should be updated regularly to facilitate control over the movement of those countries' nationals through the borders of Ukraine. The criteria for including a country in such a list (and excluding it from the list once the specified conditions cease to exist) may include, for instance, the presence of an armed conflict, poor socio-economic conditions and standards of living, overpopulation. Another potentially effective (but technically difficult) mechanism of immigration control is a selective monitoring of invitations, arrivals and departures of citizens of countries that are considered the donors of illegal migrants and stateless persons in cases of arrival of such individuals to Ukraine for study or tourism purposes.

Consultations of relevant governmental officials and joint working groups of experts from Ukraine, Moldova, Romania and relevant accession states and the EU should be held to work out proposals for introduction of streamlined visa issuing procedures that will include introduction of multiple-entry visas for specific groups (like frequent travellers for business or academic purposes), setting reasonable visa fees, expanding the network of consular institutions and training consular personnel.

Ukraine's visa dialogue with the candidate states and the EU should be based on reciprocity principles and negotiation of readmission agreements, synchronised with similar readmission agreements with the Russian Federation, Moldova and Belarus. Since most of illegal migrants arrive to Ukraine (and, similarly, to Moldova) through territories of member countries of the Commonwealth of Independent States, any measures to counter illegal immigration and transit migration through Ukraine, taken by Ukraine unilaterally, will prove ineffective unless they are accompanied by conclusion of readmission agreements with individual member states of the CIS and facilitated by constant information exchange on a bilateral and multilateral basis. Such information exchange will be made more effective by development of a regularly updated database on illegal migration.

A mechanism for Moldovan-Romanian-Ukrainian co-operation in the area of countering illegal migration and trafficking in human beings as organised criminal activities may be developed within a co-operative effort of the BSEC participating states that signed an Additional Protocol to the agreement on co-operation in combating organised crime at the 5<sup>th</sup> meeting of ministers of internal affairs and public order of the BSEC member states in Kyiv, Ukraine, on March 15, 2002<sup>52</sup>. To make any mechanism effective, however, there is a need to expand the interaction between Moldova, Romania and Ukraine within the framework of coordinated efforts agreed on by representatives of the governments of Albania, Bosnia-Herzegovina, Bulgaria, Croatia, the Federal Republic of Yugoslavia, Macedonia, Greece, Hungary, Moldova, Romania, Slovenia, Turkey and Ukraine who met in Bucharest in May 2001 to discuss effective cross-border solutions to the problems of trafficking in human beings and illegal immigration and expressed commitment to coordinated efforts to combat trafficking in human beings and illegal immigration at the national, regional and international levels, as well as to protection of trafficking victims, their human rights and the dignity.

The approach to migration adopted by the EU states and by the accession states that have to implement the Schengen acquis as a necessary condition for their future EU accession is largely based on perception of international migration in general, and migration from the territories of the East European non-accession states primarily as a security threat. While unsuitable for offering viable long-term solutions to the real problems that have to be admitted, studied and alleviated through co-operative undertakings, this narrowed perspective may be detrimental to regional co-operation between the accession and non-accession countries of Central and Eastern Europe as well as between countries of Eastern Europe and the enlarged European Union. Finding a credible and sustainable alternative to it should be a priority for Ukraine, Moldova, Romania and other states involved.

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<sup>52</sup> for texts of the official documents approved by the meeting, see [http://www.bsec.gov.tr/press\\_releases.htm](http://www.bsec.gov.tr/press_releases.htm)



# **Possible ways of activation of trade and economic relations at regional and cross-border levels in the triangle Moldova-Romania-Ukraine**

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## ***I. Introduction***

The fundamental principle of integration with the civilized European society is the accomplishment of an active policy of good neighborhood and regional cooperation. Thus, regional cooperation focuses its attention on the mechanisms of consolidation of a good vicinity as it is called to fill these relations with constantly growing potential of interaction and interdependence.

Regional cooperation appears as a phenomenon functioning and developing in several basic directions:

- Cooperation between the states of region;
- Cooperation between separate regions of the states;
- Cross-border cooperation of border territories – “euro-regions”.

Regional cooperation, especially in the form of cross-border cooperation (of “euro-regions”), is designed to stimulate not only the economic growth and life standard of communities located in peripheral areas of the states, but also to transform into a tool of protection and development of national minorities on both sides of border. Moreover, the “engagement” of the various states by means of “euro-regions” favors the unification of Europe, weakens the threat of new dividing lines on the continent.

The basic principle of regional cooperation of the neighbor states is the deepening of multilateral friendly relations between the border administrative-territorial units according to nationwide priorities of each of the countries. Regional cooperation is used for the development of the effective mechanism of mutual relation between internal policy and the international safety, particularly by the resolution of problems of social-economic sphere, improvement of conditions of free trade, investment climate, integration with the European communication and transport networks.

## ***II. The basis, specificity and preconditions of development of regional Cooperation between Moldova, Ukraine and Romania***

Development of trade and economic relations within the framework of regional cooperation between the countries of the region - Moldova, Romania and Ukraine - is carried out on all above-mentioned directions and has certain specificity. The practice of tripartite cooperation starts only in the nineties of 20<sup>th</sup> century (*the emergence of independent Moldovan and Ukrainian states*).

The international legal bases of good vicinity and regional cooperation were founded as a result of signing of a series of international accords, agreements and other statutory acts:

- *The accord of good vicinity, friendship and cooperation (October 1992);*
- *The agreement between the government of Ukraine and the government of the Republic Moldova about cooperation of border regions of Ukraine and administrative-territorial units of the Republic of Moldova (March 1997);*

- *The agreement about good vicinity and cooperation between Romania and Ukraine (May - June 1997);*
- *The Decisions of tripartite Ukrainian-Moldovan-Romanian summits in Izmail (July 1997) and Chisinau (October 1998);*
- *The agreement on creation of "Upper Prut" Euro-region, signed in Botosani (Romania) in September 2000 and the Statute of "Upper Prut" Euro-region, authorized by the decision of the Council of "Upper Prut" Euro-region in November 2000 in Edinet (Moldova);*
- *The Protocol on cooperation between Chernovtsy area of Ukraine, Bavarian district Schwaben and Suceava district of Romania (May 1997).*

The cooperation of the states really became more active beginning with 1997, as a result of Izmail (July 1997) and Chisinau (October 1998) Declarations of Presidents of Moldova, Romania and Ukraine and signing of the Protocol on tripartite cooperation between the Governments of Moldova, Ukraine and Romania (July 1997). 1998 was created the "Lower Danube", whose founders were the authorities of three Romanian districts, three districts from Moldova (Cahul, Vulcanesti, Cantemir) and the Odessa region of Ukraine, and in september 2000 the Upper Prut Euro-region was created, including two Romanian counties (Suceava, Botosani), six Moldovan districts (Briceni, Glodeni, Edinet, Falesti, Riscani, Ocnita) and Chernovtsy region of Ukraine..

Thus, the ***prospects of tripartite regional cooperation assumed the development of direct contacts and mutually advantageous cooperation between administrative-territorial units of Ukraine, Romania and Moldova primarily within the framework of the created Euro-regions, in particular by giving sense to the condition of their normative-legal base.*** In the states of the European Union, the overall objective of the created euro-regions consists in improvement of economy of these territories. In our case, the problem is more substantial, as besides the economic, national-cultural, social-psychological objectives, it also includes the financial purposes. By means of Euro-regions, it was supposed to attract foreign investments as the international organizations and private investors are inclined to finance not central, but sooner local regional projects where it is possible to control their accomplishment and to see results of cooperation more easily.

At the present moment, the important precondition of successful development of trade and economic relations of the parties from the region is the creation of conceptual base for increase of efficiency of processes in this sphere at the regional level, and also development of the plan of action, oriented towards the improvement of functioning of the borders in Moldova-Ukraine-Romania triangle, including within the framework of tripartite Euro-regions, as a whole. Today, the given problem is subject to wide discussion at the level of the European structures and international organizations resulted from the necessity of solution of several, practically mutually opposed tasks.

First, the European Union is objectively interested in the protection of its own borders in the East. In this case, the openness of borders of the countries, which in the near future appear to be direct neighbors of the European Union, and also Ukrainian-Russian border, does not promote at all the reduction of the number of cases of illegal migration or contraband fluxes at the future borders of the European Union.

Second, the external border of the EU cannot carry out the extremely protective functions, though, at the given stage, concerning the region examined by us, the question lays in this very fact. Together with it, the specified function of external border of the European Union should not limit the perspectives of development of regional and cross-border cooperation, particularly in trade and economic sphere.

Thus, the mutual interest of both future eastern members of the EU and the states adjoining to them, in the access to the markets of potential partners causes finding by external border of the European Union of the second function - the original bridge for expansion of civilized communications of all interested parties at the border and wider levels. In trade and economic sphere the question lies, first of all, in the construction of the optimal scheme, including based on the already existing mechanisms, maintenance and intensification of such contacts. This task, in view of objective political, ethnic, economic realities in the region, is rather problematic as the simple review of the problems of the border trade and economic cooperation connected to the lack of complex, simplified, precise and transparent norms of transit across the border of transports, goods and services, no less than discussion of perspectives of improvement of the situation, would be insufficient.

Therefore, except for above-stated, our focus should also include wider problems, including of political nature, which define both the character of interstate relations, and directly the situation at the borders of Moldova-Ukraine-Romania triangle.

### ***III. "The Specific position" of Moldova in the context of interests of the EU concerning the situation of state borders of the countries from the region***

The study of the problem of consolidation of the control over the functioning of frontiers in the above-stated region is caused, first of all, by the transformation of the Republic Moldova into an object of special interest of the EU. During the last year, one could notice a constant growth of attention of the leadership of the European Union towards Moldova. On the one hand, it is determined by the expected transformation of the Republic of Moldova in a "limitrophe state" (*after the probable inclusion of Romania in the EU*) in the most direct, for Brussels, sense.

The dominant moment of the present position of the EU leadership regarding the situation of Moldovan borders is the question of maintenance of stability on eastern borders of the European Union, de-blocking of disputed units (*particularly the Transdnestrrian*) and the provision of a quite rigid optimal regime, in the context of EU interests, for the circulation of people, goods and services in this zone. For Brussels and the countries of the Central European Initiative, the condition of multilateral relations in the Moldova-Ukraine-Romania triangle is rather significant too.

Unlike Ukraine, also having common border with Romania, the Republic of Moldova is caught in the given situation in a special position: in order to prevent the growth of the anti-Romanian moods in Moldova, the official Bucharest will insist on the maintenance of a preferential regime for crossing of the Moldovan-Romanian border. In this case, in the foreground for the EU appears the necessity of maintenance of the "external" Moldovan-Ukrainian border at a level, which is getting closer to its own standards, in other words – significantly consolidating this border.

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The present internal political condition in the Republic of Moldova, the situation at the eastern borders of Moldova and also some aspects of bilateral Moldovan-Ukrainian relations are examined by the European Union as factors bearing certain threats for the accomplishment of the above-mentioned EU position concerning the situation at the Moldovan borders as a whole.

The European Union is obviously concerned about the ongoing Moldovan-Transdnistrian conflict and, as a consequence, the presence in the Transdnistrian region of Moldova of an uncontrolled by the Chisinau authority, out of the field of action of international legal norms and incompliant with the European rules and standards of trade, transit of the goods and cross-border interactions. Brussels is concerned with such illegal operations on and through the territory of unrecognized Transdnistrian Moldovan Republic (TMR):

- Uncontrollable movement of persons at a full openness of administrative borders of Moldova and Transdnistria and sufficient openness of Romanian-Moldovan borders;
- Illegal operations of production, selling and transit of weapons;
- Operations with drugs;
- Smuggling operations, uncontrolled by the authorities of the Republic of Moldova movement of “legal” products;
- Uncontrolled and illegal financial operations, “black” offshore.

The elimination of the given situation is considered as one of the priority tasks of the European Union. The optimal means for the solution of this problem is the prompt integration of the region in a unique state and legal space of the Republic of Moldova, primarily the establishment in Transdnistria of unique Moldovan norms regulating, first of all, foreign trade activities of the region. The efforts of official Chisinau regarding restoration of integrity of Moldovan political and economic space, minimization of a share of goods smuggled through the eastern Moldova border will be supported unequivocally by the European Union. At least some directions of activity of the Republic of Moldova in this key will meet approval, in particular:

- Provision of a new regime of customs-certification regulation, implemented by the Moldovan side on September 1, 2001 after the inclusion in the WTO, as the European circles are interested in gradual transition of leadership subjects from Transdnistria in a mode of tax-budgetary relations with Chisinau;
- The necessity of organization together with Ukraine of border customs maintenance on Transdnistrian sector of Moldovan-Ukrainian border, creation by the two states of joint customs posts along its perimeter;
- Common measures of consolidation of the regime of the Moldovan-Ukrainian border regardless of its specific sector;
- Any innovations regarding the consolidation of the control over fluxes of goods, suppression of smuggling, to a certain degree - regulation of movement of people (*here it is possible to include the monitoring systems: “Control-GT” - system of electronic control of transit cargoes; “Control RM” - system of the account of the basic material resources for the strengthening of control of production, storage and sale of goods subject to excise; pre-shipment inspection*).

The above-mentioned measures are designed to affect significantly the situation at the Transdnistrian sector of Moldovan-Ukrainian border and also at the Moldovan borders in general, particularly by gradual legalization of process of circulation of people, goods, services and reduction of underground component of trade and economic relations of Moldova at the border level.

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The important factor determining the positive prospects of minimization of a shadow share of frontier trade and economic relations in region is the solution of the issues connected to the establishment of a joint Moldovan-Ukrainian control over the Transdnistrian sector of the common border and the flux of products passing through it.

The basic moments of positions of the parties in the specified problem are:

- Creation of common customs will be unconditionally used by the Moldovan side for the intensification anti-Transdnistrian efforts, particularly the greatest possible suppression of export activity of Transdnistrian economic agents lacking budgetary and tax relations with Moldova (*i.e. practically all economic sphere of TMR*).

Any concession in favor of the Moldovan side in the relevant issue is extremely harshly perceived by the Transdnistrian administration. Hence, Tiraspol interprets, providing rather credible arguments, what is specified as direct infringement of the existing legal base of normalization of Moldovan-Transdnistrian relations whose guarantors are Ukraine, Russia and European community, in the person of OSCE.

Thus, the position of Ukraine in the issue of the joint control together with Moldova over the Transdnistrian sector of the common border, particularly over the fluxes of goods passing through it, is rather vulnerable. On one hand, the position of the Republic of Moldova, as well as the EU, is characterized by an increased requirement towards the Ukrainian side to respect more consecutively the sovereignty and integrity of Moldova. In this context, Kiev's support of Tiraspol will cause negative reaction in Chisinau, Brussels and other European capital cities. Already today, the EU perceives harshly enough the steps made by Ukraine towards Transdnistria, calling Kiev to recognize further certificates ST-1 issued by Commercial and Industrial Chamber of Transdnistria, that as a whole may represent one of the factors complicating the relations between Ukraine and the European Union.

On the other hand, as a consequence the further ignoring of interests of Transdnistria will increase the tension in the region, as the introduction by Moldova on September 1, 2001 of new customs security and new customs seals (*which, as a matter of fact, represented a customs and economic blockade of Transdnistria*) has already returned Tiraspol and Chisinau to the phase of revision of initial demands regarding the status of Transdnistria, thus denying the accomplished, including with the intermediary participation of Ukraine, normative-legal base of settlement of Transdnistrian conflict during the past eight years. Besides, Ukraine also experiences significant economic losses in conditions of a maintained customs conflict between Moldova and Transdnistria.

The volume of trade turnover of Transdnistria with Ukraine for the first half of the year 2001, i.e. practically on the eve of implementation by Moldova of new customs regime, amounted to 34.1 million US Dollars, including export to Ukraine – 4.1 million US Dollars and volume of import from Ukraine - 30 million US Dollars.

More than 30 Transdnistrian enterprises maintain economic contacts with more than 55 large enterprises from Ukraine. The greatest part of export-import transactions is carried out by Moldovan metallurgical plant (MMP) in Rybnitsa, which during the specified period has purchased in Ukraine raw material of more than 25 million USD. Each month MMZ buys in Ukraine from 50 up to 60 thousand tons of scrap metal. Through the Ukrainian ports, the Rybnitsa Plant ships each month 75 thousand tons of metal-roll.

One of the largest enterprises from Transdnistria, the Joint-Stock Company “Tirotex” imports the cotton (more than 10 thousand tons per year) through the ports of Odessa and Ilichiv’sk. The shoe factories from Transdnistria each year purchase in Ukraine raw material and materials for industrial needs of more than 1 million dollars. The objects of Transdnistrian electro-technical branch also purchase in Ukraine raw material and materials of more than 1 million US dollars each year. In its turn, the Moldovan Hydroelectric Power Plant each year receives from Ukraine materials, equipment and spare parts with a value of more than 1.5 million US dollars. Besides, the territory of Ukraine is used for the transit of cargoes from Transdnistria to Russia and other CIS countries, whose value amounts to more than 80 million US dollars (without transit of energy carriers).

Thus, from the pragmatic point of view, the restraint of these transport fluxes, and also the failure to fulfill by the Transdnistrian partners the treaty obligations with the Ukrainian side will result in under-reception by Ukraine of the profit from work with Transdnistrian economic agents, which naturally determines the position of Kiev in the issue of implementation by Chisinau of customs and economic sanctions in relation with Transdnistria.

#### ***IV. The situation and problematic issues of regional trade and economic cooperation of Ukraine and Republic Moldova.***

The analysis of trade and economic relations of Ukraine and Republic Moldova proves that after the collapse of the USSR and the Council for Mutual Economic Aid, a number of problems appeared in mutual relations:

- Disharmony of border and tax systems which maintains the tendency of further deterioration in conditions of increase of differences in technical norms and rules,
- Complication of general certification of the goods and services.

At the same time, the development of some mechanisms of optimization of trade and economic cooperation within the framework of commissions on economy, infrastructure and tourism of “Upper Prut” and “Lower Danube” euro-regions is called to provide the increase of efficiency of bilateral relations.

As an illustration, we will consider the specificity of trade and economic relations of Republic Moldova with Chernovtsy region of Ukraine.

Presently, more than 50 enterprises of Chernovtsy area are involved in trade and economic relations with Moldova. The analysis of parameters of foreign trade of the region with the Republic of Moldova in 1995-1999 indicates its reduction. The creation of “Upper Prut” Euro-region promoted activization of bilateral trade and economic contacts at the regional level. In particular, the external economic turnover of Chernovtsy area with Republic Moldova in 2000 amounted to 2.2 million US dollars (export – 2.1, import – 0.1 million USD), which is 2.4 times bigger than the value of 1999, and by the end of 2001- almost 3.0 million USD.

In the period between January and November 2001, the volume of foreign trade of Chernovtsy region with Moldova amounted to 2657.67 thousand USD (export – 2436.56, import – 221.17), in comparison with the similar period of 2000 this value has grown with 60.5 %.

In 2001, following groups of goods are exported from area to the Republic Moldova:

- Fruits and nuts – 571.20 thousand USD (30.31 %);
- Wood and wood products – 363.26 thousand USD (19.28 %);
- Products from ferrous metals – 242.10 thousand USD (12.85 %);
- Pharmaceutical production – 187.91 thousand dollars (9.97 %).

Imported:

- Cereal crops – 43.24 thousand USD (21.95 %);
- Seeds and fruits of essential oil plants-109.91 thousand USD (56 %);
- Electric machines and equipment – 33.04 thousand USD (16.77 %).

In the Chernovtsy region, there are nine registered joint Moldovan-Ukrainian enterprises. At the situation on 1.10.2001, there were Moldovan investments in the economy of the area amounting to 79.53 thousand USD. In 2001, the processes of mutually advantageous cooperation between structures of agriculture of border areas became essentially more active. Thus, the development of cooperation in manufacture of agro-industrial production through border agricultural cooperation becomes one of the important factors for the establishment of priority branches of the region.

At the same time, during the accomplishment of obligations between the subjects of inter-regional programs, the Moldovan side focuses attention on the existence of some ***problems, connected with absence of complex, simplified, precise and transparent norms concerning moving through the border of transport, goods and cargoes.*** According to their estimations, the system of official registration of documents existing today for crossing border is rather bulky, expensive and time consuming.

Particularly for the export of vegetable production for processing from Moldova to Ukraine, it is necessary:

- Quarantine permission of General State Quarantine of Ukraine;
- Phytosanitary certificate of the country-manufacturer, and also inspection of protection of plants of Ukraine;
- The contract on delivery;

- Commodity-transport documents which state the size of the batch, documents proving that the cargo is under the customs control;
- The certificate of compliance with the State Standard of Ukraine on agricultural production, including the certificate of origin and conformity of the Republic Moldova;
- The document identifying the person declared upon reception of the certificate of recognition;
- Payment of VAT, custom fees;
- The permission for transportation with freight truck, convoy and other documents.

The registration of the above-mentioned documents and payment of services thus essentially increase the cost price and terms of delivery of contracted fruit-and-vegetable production, which quickly spoils, practically interfering with the accomplishment of the international cooperation in the given branch. The similar situation develops at the transportation of seeds, fertilizers and also other production and raw material.

The agricultural production from the northern areas of Moldova, as a rule, until recently has been processed at the Ukrainian enterprises and construction materials of the Ukrainian enterprises had an essential demand in Moldova. But the existing today taxation of goods and services, the complicated procedures of border crossing, necessity of mutual recognition of certificates, and also a number of other documents issued by different structures, make the development of exchange of products in the Euro-region, as well as attraction of internal and external investments extremely unprofitable.

#### ***V. Situation and problematic issues of regional trade and economic cooperation with Romania (According to the example of Chernovtsy area of Ukraine)***

The creation of euro-regional structure with the participation of Chernovtsy area and northern counties of Romania promoted activization of trade and economic cooperation between economic agents of both sides.

Presently, about 20 Moldovan-Romanian joint enterprises are registered in the area. The basic directions of their activity are production and sale of consumer goods, construction materials, tourist services, repair and technical support of automobiles, construction, processing of agricultural production.

The work experience of the representative of Trade & Industrial Chamber in Suceava (Romania) in the study of the juncture of Romanian market and also the accomplished marketing researches show the interest of Romanian and Ukrainian businesspersons in the development of trade and economic relations. The greatest interest of the Romanian side is noticed in the following Ukrainian production: wood and construction materials (roofing slate, cement, bricks, ruberoid, glass), metal rolls, automobile tires, mineral fertilizers, raw material for paint industry (pigments). According to the commercial inquiries received by the representative of Chernovtsy Trade and Industrial Chamber in Suceava, the annual minimal need for mineral fertilizers amounts 10 thousand tons, automobile tires - 7-8 thousand pieces. In addition, at the intermediary participation of representation of Chernovtsy TIC in the beginning of 2002, were signed contracts concerning export of forest products to Romania with a value of 2 million euro. With their help, in 2001 sixteen



contracts and agreements were signed between the Ukrainian and Romanian businesspersons with a total value of 1 457 500 US dollars and 359 600 euros.

In the year 2000, the foreign trade turnover of Chernovtsy area with Romania amounted to 1303.66 thousand dollars. In January-October 2000, a revival of bilateral foreign trade was observed. The turnover amounted to 1580.85 thousand USD, which is almost 2 times greater than the value of the similar period of 2000.

The foreign trade connections with Romania involve about 30 economic agents of the region.

In the course of 9 months, 2001 from area was exported:

- Wood and wood products with a value of 297.91 thousand \$ US (40.52 % of total exports of the goods);
- Fertilizers of 184.24 thousand US dollars (25.06 %);
- Products from ferrous metals of 70.5 thousand USD (9.59 %);
- Electric machinery and the equipment of 72.80 thousand USD (9.9 %);
- Catechu, paints and varnishes, mastic, ink with a value of 26.84 thousand USD (3.65 %).

Imported:

- Paper and cardboard, paper products of 303.04 thousand USD (37.28 % of the total import of the goods);
- Products of inorganic chemistry of 192.09 thousand USD (23.63 %);
- Furniture, medical-surgical furniture, bed accessories, illumination devices of 78.35 thousand USD (9.64 %);
- Pharmaceutical production of 64.26 thousand USD (7.91 %);
- Ferrous metals of 57.46 thousand USD (7.07 %);
- Tannic or paint extracts, tannin and its derivatives, paints and varnishes, mastic, ink of 41.6 thousand USD (5.55 %).

With the purpose of expansion of economic cooperation of the region with Romania in the future, was planned the creation in the region of joint Ukrainian-Romanian enterprises for processing of wood and agricultural production, and also was planned to organize activity in Botosani, Suceava and Chernovtsy of commercial structures for the sale of goods of regional producers.

Behind the estimations of experts, the future of Ukrainian-Romanian trade and economic relations, including within the framework of “Upper Prut” Euro-region, depend on the solution of such issues:

*- **Settlement of the custom fees and payments** (for example, import customs share in Romania of tire production from Ukraine make 30 %, of mineral fertilizers - 10 %, glass - 15 %, slate, roofing material, cement - 10 %, metal products - 15-20 %. At the same time, the share of CEFTA countries is practically zero. The specified facts essentially constrain the bilateral commodity circulation);*

*- **The solution of transportation problems related to the delivery of cargoes** both on railway, and auto transport (the reduction of terms of delivery of cargoes and preservation of their quality, as according to the results of the meetings held with the Romanian businessmen not once was raised the question of rather unreasonably long*

*terms of delivery of the Ukrainian goods in DAF conditions; an effective utilization of existing broad-gauge railway tracks which conduct to the territory of Romania, particularly through territory of the Republic Moldova; creation at the terminal stations (for example in city of Iasi., Romania) of certified warehouses).*

A characteristic aspect of the functioning of “Upper Prut” Euro-region is the inclusion in this structure, within the framework of partnership agreements, of the western partners of Chernovtsy region in the cross-border cooperation - Carinthia (Austria) and Swabia (Bavaria Land, Germany). Their participation in the Euro-region is considered as one of the necessary conditions of successful development of euro-regional cooperation, including trade and economic, and regulation of relations within projects with particular regional units in the EU countries, as well as the relations with the appropriate international structures and programs.

According to estimations of foreign partners, the general approach of development of an effective mechanism of mutual relations between internal policy and international safety in frameworks of cross-border cooperation demands creation by the members of Euro-region, as well as by the states, of appropriate infrastructure for the accomplishment of joint projects. The basic features of such infrastructure should be its capacity in the existing social-economic and normative-legal conditions in the founding countries, the acceptability for euro-regional partners on the part of the EU and potential investors and creditors.

The creation of a capable and constant infrastructure is based on principles parity and non-interference in the internal legislation and competence of participant countries. For the accomplishment of a set of cross-border projects, coordinated with the governments, partners and the authorized structures of EU, for the development of regional economic and trade relations, it is necessary to allocate to the enterprises-executors of joint projects the coordinated part of compulsory tax and customs payments (established by the internal legislation of the states) as appropriate interstate investments in cross-border projects under the following conditions:

- Projects and participant enterprises relate to the branches of social and economic sphere, which are called as the priority governments of participant countries;*
- Projects and the enterprises involved in Euro-region will accomplish preliminary expert examination in the Working Commissions of the structure with the mandatory participation of representatives of interested central authority of the trustee-countries and authorized experts on behalf of donor partners from the European Union, and also on behalf of investing (financing) establishments;*
- The use of means of the enterprises, which remain in their possession according to the mechanism of state and local investment, will be under the constant control of the above-mentioned structures.*

The presented mechanism of financing will promote the improvement of conditions for external investment in the Euro-region; will provide stimuli to enterprises participating in the projects for maximal increase of production volumes.

From the point of view of the western partners of “Upper Prut” Euro-region and potential investors, the symbiosis of the specified mechanism will support projects by the coordinated joint financing by PHARE/TACIS program on “Cross-Border cooperation”, will allow to involve specific grants and credits of the European Reconstruction and Development Bank, Global Ecological Fund, OECD programs and UNIDO/UNEP on ecologically clean production.

In addition, the decision making concerning the introduction of the Schengen visa regime in the neighboring countries will negatively affect the trade and economic relations (in particular the restrictions of small trade connected to it, and also harm the industry in economically weaker developed peripheral areas of Ukraine, Romania, the Republic Moldova).

The western experts specify that this problem is caused by the “opening” of the Russian-Ukrainian border that makes the “European solution” of the problems at the southwestern borders Ukraine in immediate future impossible.

Taking into account that neither Ukraine, nor the adjacent countries in the considered region are capable to accomplish independently projects, which would promote economic integration of border regions, the western partners consider as reasonable the support by the European Union of projects of integration character. In particular, at the level of European structures, it would be necessary to consider the problem of assignment of means for the for modernization of the border equipment, including for simplification of crossing through border of passengers and transport, which will be complicated after introduction of the Schengen regime, and also to achieve optimum connection of two purposes (which do not contradict with each other) - fast customs registration and an effective control. Visa procedure should become cheaper and easier.

According to estimations of the Austrian partners of “Upper Prut” Euro-region, ***in accordance to the existing conditions of financing of TACIS program and other programs of EU, the probability of creation of the necessary infrastructure and constant interest of regional and business structures concerning long economic relations is considered rather low***, taking into account the real situation in Ukraine and the neighbor states.

The steps that have been made by the members of “Upper Prut” Euro-region concerning the cancellation of local fees and payments for crossing of border for the inhabitants and the legal persons registered in the territory of the Euro-region, have improved slightly the situation. But, essential changes of economic growth and increase of collections in the state and local budgets due to growth of incomes of regional trade and economic cooperation are possible only in case of a coordinated solution by the governments of Ukraine, Romania and Moldova of problems related to the reduction and simplification of payment of fees and payments for products and services made and used in the territory of Euro-region members, unification and mutual recognition of the documentation on such goods and services, and also due to other kinds of stimulation of specific cross-border cooperation according to the European standards.

As a whole, the realization of the specified actions is constrained by the following factors:

1. In the legislation of three countries, the legal bases for the accomplishment by their border administrative-territorial units of direct joint activity in sphere of the general interests and cooperation with the European partners stipulated by constituent documents and decisions of Euro-regions are not determined.
2. There are no mechanisms of interaction of the governmental and parliamentary structures for consideration and coordination at a tripartite level of issues of cross-border cooperation between the members of Euro-region, and also their European partners.
3. The normative-legal basis for joint financing of cross-border projects (crediting, concentration of local, regional and state budgetary appropriations and means of private and international structures) and maintenance of the appropriate guarantees is not elaborated.

The consideration of these problems at the session of CEI Workgroup on inter-regional and cross-border collaboration in Warsaw 11.04.2001 has proven that such a situation is typical for other administrative-territorial units of Romania, Ukraine and the CIS countries. It is obvious, that the specified problems will further appear along the border between Poland, Slovakia and Hungary with Romania on one hand, and also Russia, Byelorussia, Ukraine and Moldova – on the other.

### **Conclusions and recommendations concerning the activation of border trade and economic cooperation between Ukraine, Romania and Moldova**

The development of full border trade and economic contacts between regions of Ukraine, Moldova and Romania remains to be the important component both for the relations between the specified states and processes of European integration in each of them.

The most important condition of an intensification of regional cooperation between the countries of the region is the development of complex, precise norms of transit through borders of transport, goods and services. In addition, the actions oriented to the improvement of efficiency of functioning of frontiers of Ukraine, Moldova and Romania should precede the solution of this problem with the purpose of prevention of the frequent phenomena of illegal migration and smuggling of goods in the large quantities. In the given context, the presence in the Transdnistrian region of the Republic of Moldova of a zone, uncontrolled by Chisinau and not compliant with the European rules and standards of trade, transit and cross-border interactions, represents itself as the basic obstacle of unification of customs and trading norms at the regional level, first of all on the part of Moldova.

As prospects of settlement of Transdnistrian conflict depend on a set of political and economic arrangements and taking into account that the official Chisinau does not exclude an opportunity of providing Transdnistria with rather wide status within the Republic of Moldova, including right of independent foreign trade activities, the analysis of the future of regional cooperation between the countries of the region should take into account the realities of the process of normalization of relations between the Republic of Moldova and the Transdnistrian Republic, particularly in the economic sphere.

In that case, the preservation of customs and trading sanctions in relation to Transdnistria on behalf of Chisinau will testify, without consideration of their political orientations, the inability or unwillingness of Moldovan authorities to develop effective mechanisms of attraction of Transdnistrian side for the solution of economic problems which also represent the interests of Tiraspol. In addition, the absence of the appropriate legal base for the development by Transdnistria of trade and economic contacts will further lead to the use of half-legal methods with external partners. Ignoring existing arrangements concerning the account of interests of Transdnistria in the establishment by the Moldovan party of foreign economic relations will complicate the development of acceptable mechanisms for the settlement of Transdnistrian problem, namely - creation of a common economic space that would include both parts of Moldova, directly influencing the situation at the state borders.

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Considering the situation of cooperation between Ukraine and border administrative-territorial units of neighboring countries, one of the most important directions of activization of economic development of region is the adoption of appropriate solutions, which will promote activization of frontier trade at the regional level.

In particular, first of all it would be reasonable to:

**1. Introduce quotas on excise-free exchange of goods**, which are accomplished in frontier areas (*for example, in Chernovtsy - vodka products, and from Suceava (Romania) and Moldova - wine and wine*).

**2. Introduce quotas on duty-free exchange of goods and production**, which are accomplished in the region (*for example, from Chernovtsy – ceramic bloc, brick, confectionery products, from Suceava and Botosani (Romania) - raw material for textile industry, and from Balti and Edinet (Moldova) - vegetables, fruit*). Undertaking the specified steps, Ukraine partly supports losses on duties. At the same time are created conditions of updating of capacities of the Ukrainian enterprises, which presently stagnate.

**3. Regulate the monetary turnover in the region and create a common bank system.** It is expedient to open branches of banks of the adjacent country in frontier areas of Ukraine, and also branches of the Ukrainian banks in frontier districts of Romania and Moldova. It will make possible the accomplishment of currency transactions, at the sale of production, through own banks that will simplify the procedure of payment for production (*a problem of returning of currency means for the exported goods today is one of the most stringent*). In addition, in places of crossing of the Ukrainian - Romanian border there are no exchange points of national currencies. By opening of such points, it is possible to raise the rate of hryvnia in frontier areas of neighboring countries.

\* \* \*

Starting from necessity of the solution of the above-mentioned problems, which already in the near future may essentially complicate the situation on the future borders of the European Union and practically completely block mutual relation within the framework of Euro-regions, it is necessary to consider and present the coordinated recommendations concerning activity in the following directions:

- Consideration by the central authorities of Ukraine, Romania, Moldova of opportunities of coordinated optimization of customs and other procedures of crossing of borders, a mutual recognition and official registration of papers, reduction of size and payment through the intermediary of a common operator of the state payments and taxes for the goods and services which are manufactured and used (consumed) in the Euro-region, that, in its turn, will affect positively the economic growth and will increase the collection in the state and local budgets.

- Definition, according to the current legislation of each of the countries, of special functions of central authority bodies concerning their participation in the preparation and accomplishment of cross-border projects of Euro-regions, and also simultaneous delegation to the heads of limitrophe administrative-territorial units that are members of Euro-regions of the right to sign the appropriate documents concerning such projects with definition of specific procedures for their preliminary and final coordination at the level of the governments of the three countries.

- The agreement concerning the creation, functioning and coordination of activity in the territory of the Euro-region's members in these three countries of Regional Development Agencies and the appropriate funds and financial structures which will provide the coordinated rendering the technical assistance and concentration of necessary means which will be allocated by the local, regional, state budgets, partners of Euro-regions, other investors and international organizations for the accomplishment of cross-border projects.

- Provision of common recommendation to the EU, CEI, NATO, OECD, UNIDO, EBRD, GEF and other international structures concerning the provision of the "Upper Prut" Euro-region with a pilot status for the improvement of modern mechanisms of cross-border cooperation at the future eastern borders of the European Union: regarding the issues of inter-regional cooperation along the historical overland trading and transport routes, on the basins of the border rivers, and also in traditionally connected branches of fuel and energy, agro-industrial, forest and wood processing, construction sectors, of water supply systems, cross-border tourism, medical-recreational activity, culture, education and a science.

(It would be simultaneously expedient to consider the problem of reception of the pilot status also by the "Lower Danube" Euro-region – regarding the issues of interactions at sea coast, in Danube and Dniester deltas and sea, river and pipeline transport corridors.)

- Consideration with the EU and other international structures of issues of closer interaction between the international programs which operate in territory of the CEI and CIS countries, for provision of joint formation by these Euro-regions together with the European partners of a modern infrastructure for the cross-border cooperation.

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## **Conflicting Security Concerns across the Ukraine-Moldova Border**

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Moldova and Romania are currently the only neighbouring countries with which Ukraine still have unsettled border problems (not touching an issue of the Ukrainian-Russian border that may prove to be much more difficult to resolve). Notwithstanding the objective difficulties stipulated by the inherited legacy of Russian and Soviet imperialist policies, that had drawn and redrawn those borders proceeding from their own interest, some additional factors of more subjective nature could also be identified as hampering the processes of delimitation and demarcation of the disputed pieces of land (and island). Certain coolness and mutual mistrust are evident in both Ukraine-Moldova and Ukraine-Romania bilateral relations. By all means, such a situation has negatively influenced a process of settlement of the Transdnistrian conflict, which remains a serious threat to regional and European security and stability, and the main security concern of Ukraine. A hope to reach any progress in resolving this painful problem depends much on whether a coordinated strategy and a plan of concerted actions of the three countries most interested in it, would be elaborated. Indeed, the aim of preventing further strengthening of the Transdnistrian separatism, and curbing totalitarian regime established in the self-proclaimed Transdnistrian Moldovan Republic by its leader Igor Smirnov, is in the best national interests of Moldova, as well as of Ukraine and Romania. Whereas such a potent regional power as the RF, in pursuit of its own political and geopolitical interests, might have developed quite different plans and intentions. Taking into account these circumstances, it seems reasonable to identify the factors that negatively affect trilateral Moldovan-Ukrainian-Romanian relations, and to seek jointly possible ways to overcome existing difficulties. One of the promising approaches would be to present each side's perspective concerning the weak points and troubled areas, thus providing a space for free and open discussion to be followed by defusing the tensions and ensuring the increased confidence and partnership relations. Therefore, the issues below will be addressed as seen by some actors from within Ukrainian civil society.

### **Bilateral Ukrainian-Moldovan Relations.**

Recently, these relations by no means can be regarded as dynamically and positively developing. A number of reasons may explain an obvious lack of friendly cooperation between the two neighbouring post-Soviet states. While some of them are objective by nature, subjective perceptions often based on mutual suspicions, distrust and other sentiments contribute to this negative trend. Moreover, whereas subjective causes of coolness in Ukrainian-Moldovan relations may actually be conditioned by the reasons quite different across the border, too often they are also related to a scarcity of objective informational coverage of the developments on the other side of the borderline with the ensuing misinterpretations and misperceptions. The lack of a political will, strong enough for establishing fruitful cooperation, seems to be common to both sides, as well as low level of mutual interest within the respective societies, traditionally concerned with more potent regional players.



The situation was further exacerbated after the Party of Moldovan Communist (PCM) won on 25 February 2001 the parliamentary elections,<sup>53</sup> and on 7 April the head of PCM Vladimir Voronin was officially sworn into office as the new president of Moldovan Republic.<sup>54</sup> Subsequent pro-Russian bend in the Moldovan foreign policy, despite the same tendency (traditional for the pre-election times) in Ukraine, has caused additional complications with regard to bilateral Ukrainian-Moldovan relationship. A kind of stagnation or even deterioration of the long-standing efforts to resolve a number of important issues of bilateral relations can be admitted. Some of these issues should be considered as a priority for the foreign and domestic policy of both countries.

Let us address some of them, taking into account the latest developments.

### **Delimitation and demarcation of the Ukrainian-Moldovan interstate border.**

The agreement on interstate border between Ukraine and Moldova has been signed in 1999, and ratified by Ukraine in spring of 2000. According to this agreement, Chisinau should have transferred to Ukraine a part of a road from Odessa to Reni near the Palanka village, in exchange for Ukraine's commitment to provide for Moldova a part of territory ensuring Moldova's access to the Danube riverbank. Such a decision raised, however, protests from the Palanka residents, supported also by Moldovan intelligentsia and national-radical parties, thus preventing its ratification by the Moldovan parliament. Promises by the president Voronin to promote ratification of the agreement in June 2001 using such a leverage as a "party discipline" has failed, too. As a result, Kyiv switched to a more assertive position, and during the first visit to Ukraine of the Moldovan Premier Vasile Tarlev on 9-10 July 2001, he was told that in case of further delay with ratification, Ukrainian side would take some economic sanctions concerning, inter alia, the rigid parity of cargo transit through the territories of both countries.<sup>55</sup> This threat compelled the Moldovan Prime Minister to make concessions, and indeed, negotiations on the delimitation and demarcation of the interstate border gained some impetus.<sup>56</sup> Recently, the border agreement has been eventually ratified by the Moldovan parliament, and the joint demarcation commission has been formed that completed its first organizational meeting in Chernivtsy by reaching a decision on the beginning of concrete steps on demarcation and establishment of check points.<sup>57</sup>

Though these developments can formally be regarded as positive, without proper informational campaign to justify such kind of decisions and gain for them some public support, they may incite an additional mistrust in the relationship between the two nations. There were indications of certain aggravation of the already existing Moldovans' suspicions of what had been perceived as Ukrainian selfishness and even potential aggressiveness, marring the prospects of further mutual support and friendship at the hard

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<sup>53</sup> According to the first count, the PCM received 49,9% of the votes, and only after recounting the figure 50,7% was declared thus meaning the victory of the PCM (see "Communists of Moldova and the Future of the Country's Ethno-Political Conflicts" by Priit Jarve, ECMI Brief # 3, March 2001).

<sup>54</sup> See: "Moldova Elects New Communist president" by Angela Sirbu, TOL Week in Review, 2-8 April 2001.

<sup>55</sup> See: "Communist Moldova: A Show on the Political Championship of the CIS" by Olesya Yahno, 11.07.2001, at <http://part.orrq.ua> (in Russian).

<sup>56</sup> "Ukraine and Moldova Agreed on Five Checkpoints in the State Border", 19.11.2001, News at <http://part.orrq.ua> (in Russian)

<sup>57</sup> "Moldova and Ukraine Reached a Decision on the Beginning of a Border Demarcation". 06.03.2002, News at <http://part.orrq.ua> (in Russian).

way to democracy and European integration. (For example, during the state visit of Vasile Tarlev to Kyiv, a rally took place in Chisinau under slogan of “Not a Bit of Land to Ukrainians!”).

**A problem of customs.** Rather difficult turned out also a question of customs regulations aimed at the effective suppression of large-scale smuggling of arms and drugs across the border of the self-proclaimed Transdnistrian Moldovan Republic (PMR). During the working meeting of the two presidents in Vinnitsa on November 9 2001, they reached only what has been called a “political decision” on the issue.<sup>58</sup> The most problematic matter remained the joint control of the Ukrainian-Moldovan border, because Transdnistrian border guard prevents their Moldovan counterparts from performing their duties at the essential part of the interstate border, located at the territory of the PMR. Since Moldova suffered huge financial and economic losses due to illegal trade and trafficking across Ukraine-PMR border, in the summer of 2001, decisive steps were undertaken consisting of introducing a new custom stamp to be applied at all Moldovan border crossings, including those between Transdnistria and Ukraine. This move has been declared by the PMR president Igor Smirnov as an attempt to establish economic blockade for Transdnistria, and to hamper its trade with neighbouring Ukraine. For the effective implementation of this measure aimed at taking control over the “black hole” of the PMR part of Moldova’s border, Moldovan customs officers should have been deployed on the Ukrainian side of the border, at joint Ukrainian-Moldovan crossing points. Ukraine’s hesitation to consent with such a decision or, rather, its repeated refusals to allow Moldovan custom officers on its side of the border<sup>59</sup> fuelled anti-Ukrainian passions in Moldova. These reached its culmination at the end of 2001-beginning of 2002, when the issue was made a subject of international discussion. The Memorandum “On the Situation on the Eastern Border of Moldova” has been submitted by Moldova to the OSCE, Council of Europe, European Union and other European institutions. Kyiv, together with Tiraspol, was charged with promoting smuggling across the Ukraine-PMR border; the reluctance to establish joint Moldovan-Ukrainian customs controls was presumed to be caused by the illegal profits in which some of Ukrainian authorities might have had their share. In the official governmental response the Ukrainian side characterized these steps as “unfriendly”, though introduction of the new custom stamp was recognized as the internal affair of sovereign Moldova. However, in the same document this move was declared as inconsistent with the bilateral agreement signed between Moldova and Ukraine on 8 May 1997, and since this decision had not been agreed upon with the Ukrainian side, it was also said that the old stamps (in the possession of the PMR customs) “remain valid according to international law”.<sup>60</sup>

This critical phase created what can be considered a diplomatic crisis in Moldovan-Ukrainian relations – a situation that both countries, taking into account their actual, rather difficult circumstances and prospects, could by no means benefit from.

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<sup>58</sup> “Ukraine, Moldova Continue Dialogue on Custom Issues”, Interfax News Agency, November 9, 2001.

<sup>59</sup> “Moldova: Russian Envoy Says Moscow to Keep Troops in Transdnistria” by Eugen Tomiuc, RFE/RL, 4 February 2002.

<sup>60</sup> “Answer to Unfriendly Statements” by Anatoliy Martsynovsky, “Holos Ukrainy”, 6 February 2002. (in Ukrainian)

At the same time, in all official statements it has usually been emphasized that whatever issue of bilateral relations is addressed, Ukraine always proceeds from the general notion of the state sovereignty, territorial integrity and independence of Moldova. For example, while tackling the particular issue of border crossings, Ukrainian Prime Minister Anatoliy Kinakh stated in November 2001 that “Ukraine is not going to decide on check points and customs at the Ukrainian-Transdnistrian border separately from the rest of Ukrainian-Moldovan border”.<sup>61</sup> Indeed, recent developments allow to assume that recognizing eventually essential losses following deterioration of bilateral interstate relations, both sides reached mutually acceptable agreement. A clear indication for this are media reports according to which Ukraine, while announcing on the beginning of the demarcation of the Ukrainian-Moldovan border, stated that this step should be supplemented with the establishment of joint customs controls.<sup>62</sup> That signifies the final acceptance of exactly that contested point on which Moldovan side so hotly insisted – for quite a while, without evident success. It remains to be seen whether the another suggestion of Moldova, namely, on deploying at border and customs controls along the troubled area of Transdnistria, in addition to Ukrainian and Moldovan, also international customs officers from European countries such as Germany, Austria, and Portugal, will be also accepted by Ukraine. Positive response to such a proposal would actually mean not only acquiring a practical help for curbing those large-scale smuggling and trafficking illegal activities that alarmed many regional security concerns, but also passing a test for the sincerity of the intention of Ukrainian authorities to achieve this goal, and to confirm its pro-European course of integration.

**The Transdnistrian conflict.** The history of this conflict has been widely covered by numerous research and analytical papers, comments, and media reports. Although Ukraine, together with the OSCE and the Russian Federation, is one of the three official intermediaries in the settlement of the conflict between the Republic of Moldova and its break away region – the self-proclaimed Transdnistrian Moldovan Republic - its actual role in the process is much weaker than that played by Russia and therefore, attracts less attention. (For example, although both Ukraine and the RF act as guarantor states facilitating agreements between Moldova and Transdnistria, only Russia’s remnants of the 14<sup>th</sup> Army troops are still stationed in the conflict area, whereas Ukraine has 10 military observers). Besides, Ukraine’s true intentions and positions in regard to this particular conflict seem raising some doubts in Moldova and beyond.

As one of the reasons stipulating this mistrust, Ukraine’s standpoint might have been compromised by the insistence with which Igor Smirnov, the leader of the self-proclaimed PMR, repeatedly call on the Ukraine’s military presence in the security area, and makes requests on bringing Ukrainian peace-making troops to the Transdnistrian territory (thus joining the trilateral peace-making forces). It has been implied, probably, that after the withdrawal of Russian militaries stationed in the conflict zone, Ukrainian “Slavic brothers” would serve as a reliable force to protect predominantly Slavic population of the PMR against the possible military aggression from Chisinau. In fact, as has been rightly emphasized by one of the leading Ukrainian think tanks, “Ukraine, however, does not share this approach. On the contrary, its concept consists in reducing the level of military

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<sup>61</sup> “Ukraine and Moldova Agreed on Five Checkpoints in the State Border”, 19.11.2001, News at <http://part.orrq.ua>.

<sup>62</sup> “Moldova and Ukraine Reached a Decision on the Beginning of a Border Demarcation”. 06.03.2002, News at <http://part.orrq.ua>

saturation in the security area after a mechanism to ensure the political and military guarantees of security is worked out, reduction in the level of military presence should go hand in hand with increase of the role of military observers”.<sup>63</sup>

In retrospect, it could be stated that for Ukraine this particular conflict has presented from its very beginning maybe the most serious security concern of all of the others raging in the territory of the post-USSR. Its immediate vicinity caused, inter alia, a sudden influx of about 40,000 of refugees whom Ukrainian authorities were urged to deal with in 1992. Therefore, in contrast to the well-known geopolitical interests and aspirations of Russia, from the very beginning of this conflict, its successful settlement – in the sense of obligatory preserving the territorial integrity of the Republic of Moldova - has been in the best national interests of Ukraine. On 8 December 1991 Ukraine recognized the independence of Moldova within the borders of MSSR, and in the letter of greeting dispatched to the first elected president of Moldova, Mircea Snegur, Ukrainian president Kravchuk stated that Kyiv would like to give a new sense to Moldovan-Ukrainian relations, compatible with the new realities.

Ukraine's interest in settling the Transdnistrian conflict had been evident within the CIS framework, as well as in a wider international context. It was not accidentally that at the Kyiv meeting in March 1992 the heads of CIS countries adopted a Declaration in which it was stated that the territorial integrity of the Republic of Moldova is the key element for the entire stability in the region. Further activities of the Ukraine's government that sought to mediate the conflict at its rather early stage, were focused at trying to engage broader international participation. For example, a meeting of specialists to try to defuse the conflict included those from Ukraine, Romania, Hungary, Russia and Moldova; Ukrainian government also called on the CSCE's Chair-in Office, Jiri Dienstbier from Czechoslovakia, to intervene.<sup>64</sup> (Unfortunately, at the time, the CSCE was just beginning to set up its Conflict Prevention Centre in Vienna, and it was overwhelmed with the escalating crisis in the former Yugoslavia. Therefore, the CSCE Mission to Moldova has been established only on 4 February 1993, i.e., after – not before the short but bloody fighting between the Moldovan military and the units of the Transdnistrian Republican guard supported by the Russian 14<sup>th</sup> Army). Therefore, initial attempts to bring an end to the conflict were undertaken by the Moldovan President Snegur, Russian President Yeltsin, Ukrainian President Kravchuk, and Romanian president Iliescu. At a summit in Moscow on July 6-7, 1992, the parties agreed to a cease-fire and to send a trilateral peacekeeping force consisting of Russian, Moldovan, and Transdnistrian troops, thus leaving aside a question of possible Ukrainian involvement in peacekeeping operations.

Later on, Ukraine continued its efforts by such steps as signing with the RF the Agreement on transit through the Ukrainian territory of military units, arms and military equipment provisionally located in Transdnistria (1997), signing, along with the Presidents of Moldova and Russia, the OSCE Chairman-in-Office, and the Transdnistrian leader a “Memorandum on the Basis for Normalization of Relations between the Republic of Moldova and Transdnistria (8 May 1997, Moscow), and initiating a meeting of mediators and conflict parties that was held in Odessa on 19-20 March 1998. At this meeting, two important agreements were signed by both the Moldovan President and Transdnistrian,

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<sup>63</sup> “Problems of Settling the Conflict in Transdnistria” May 2000, in: Monitoring Foreign and Security Policy of Ukraine, CPCFPU, Occasional Paper 23/1998, <http://www.foreignpolicy.org.ua>

<sup>64</sup> “Disintegrating States” by P.Terrence Hopmann (Brown University), p.13-25, at: <http://www.ccpdc.org/pubs/zart/ch6.htm>.

namely, "Measures of Confidence and the Development of Contacts" and a "Protocol on Several Priority Steps to Activate the Political Settlement of the Transdniestrian Problem". According to those agreements, the peace-making forces of the opposing parties should be reduced, and the mechanism to implement security guarantees to be launched.<sup>65</sup>

It is important to note that at that time, the Transdniestrian side also committed not to oppose to the withdrawal of Russian arms from its territory.<sup>66</sup> However, in defiance to the readiness of Moldova to observe its obligations, to reduce their servicemen presence in the conflict zone, and to complete their withdrawal by 12 October 1998 even in a unilateral way, Transdniestrian side actually blocked the implementation of the Odessa agreement. This has been done through making unrealistic demands as, for example, for the official examination by Chisinau of such document as Declaration on the Transdniestrian Statehood, also by impeding the regular meetings of the Joint Control Commission (the JCC has been established to supervise the activities of the RF peacekeeping contingent stationed on both sides of the Dniester river). In general, it is already evident that the Transdniestrian side of the conflict often disregards its own commitments, and reveals strong resistance to the very idea of demilitarization of the security zone. Despite the PMR resistance, the then Moldovan leadership declared its intention to continue the reduction of the peace-making forces to the level envisaged by the Odessa agreement. The Co-Head of the Joint Control Commission from the Moldovan party also emphasized that the measures taken for the settlement of the conflict, and for promoting the renewed contacts between people, were highly appreciated by the population inhabiting both banks of the Dniester, as well as by international community.

Supporting these initiatives of Moldova, Ukraine tried to re-activate its role in the Transdniestrian conflict settlement. A settlement plan has been proposed consisting of several consecutive steps for the implementation of the Odessa agreements, and suggesting precise terms for each of them. These measures included determination a status of the PTMR, schedule of meetings of the leaders of the sides of conflict, and a control mechanism for observing the guarantees of settlement, including the bringing of military observers' missions to the security zone. Ukraine was the first party-guarantor to send its 10 observers pursuant to the Odessa agreements, and to allocate from the state budget the funds necessary for their activities.

According to these proposals, determination of the PMR's status would be addressed by an expert group consisting of representatives of states-guarantors and the OSCE. On 30 November 1998 a meeting of the expert group at the deputy minister level was held in Kyiv. Representatives of Ukraine, Moldova, Russia and the OSCE participated in the meeting, whereas representatives of the PMR did not arrive. Taking into account that the most difficult problem of the conflict settlement remained that of the PMR's status, Ukraine has then suggested to apply a principle of a "suspended status".<sup>67</sup> These developments were followed by signing on 16 July 1999 of the Kyiv Joint Statement by the President of Moldova and the Leader of Transdniestria, together with the representatives of the guarantor states, the Prime Minister of the Russian Federation and

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<sup>65</sup> "Ukraine and Settlement of the Transdniestria Conflict", October-December 1998, in: Monitoring Foreign and Security Policy of Ukraine, CPCFPU, Occasional Paper 23/1998, <http://www.foreignpolicy.org.ua>.

<sup>66</sup> ITAR-TASS/DINAU, 23 March 1998.

<sup>67</sup> "Political Status Problem of the Transdniestrian Moldovan Republic and Conflict Settlement in Transdniestria", and "Problems of Settling the Conflict in Transdniestria" May 2000, in: Monitoring Foreign and Security Policy of Ukraine, CPCFPU, Occasional Paper 23/1998, <http://www.foreignpolicy.org.ua>



the President of Ukraine. In this text it was agreed that the parties will construct their relations on the following principles: common borders and common economic, legal, defense and social domains.

One more step forward took place on 20-24 March 2000, when the OSCE Mission together with the Ukrainian Ministry of Foreign Affairs organized a "Working Table" on the Transdnistrian settlement in Kiev. Participants included the heads of the experts' groups from both the Moldovan and Transdnistrian sides, the three mediators (Russian Federation, Ukraine and OSCE) as well as experts on international law, constitutional systems and conflict resolution. The specialists produced recommendations on the structure, state organs, and division of competencies of the "common state"<sup>68</sup>, and stages and possible guarantees for implementation of the settlement.<sup>69</sup>

From this brief overview of Ukraine's position it follows that at the level of the official policy, public statements of democratically-minded leaders, and practical steps, not a single sign of Kyiv's actual support for separatists was ever visible - in sharp contrast to that of Russia. (At earlier stages, the latter provided such a support not only by military, but by political means as well. It was reported, for example, that on 5 April 1992 Russian Vice President Rutskoi visited Tiraspol to show support for the Russian enclave, and after returning to Moscow, urged the Russian State Duma to recognize the "Dniester Republic"<sup>70</sup>). Despite this undisputed fact, Ukraine's role in the Transdnistrian conflict has often been questioned, and a number of rumours circulated within the breakaway region, as well as in the rest of Moldova. Regrettably, these may to some extent be justified by occasional publications in Ukrainian media, like the one claiming that "Transdnistria is actually for a long time our ally, though some politicians stubbornly try not to see it... Ukraine should change decisively its policy towards Transdnistria... and to turn [this region] into the devoted sworn brother".<sup>71</sup> It should always be kept in mind that in Ukraine, like in any other country, quite different types of media exist, including that known as being anti-Western and Russia- and Slavs-oriented. Therefore, no wonder that rather notorious publications appear targeting not only Moldova but also all other countries, nations and political groupings (including still condemned "Ukrainian nationalists") that do not share such preferences, or do not recognize Ukraine's belonging to "East-Christian, Slavic Brotherhood". Certain indecisiveness in dealing with the sides of conflict, and in particular, direct contacts of Ukrainian president Kuchma with the leader of Transdnistrian separatists Igor Smirnov also contribute to Moldova's mistrust when it comes to Kyiv's true positions and intentions.<sup>72</sup>

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<sup>68</sup> The notion of "common state" implies the establishment of the common political space for the parties of conflict. This principle emerged initially in the Memorandum of 8 May 1997 signed in Moscow, and the author of this term was the then Russia's Foreign Minister Yevgeniy Primakov, who later, in 2000, was appointed by the RF President Putin as chairman of the State Commission for Settlement of the Transdnistrian Conflict. (See Occasional Papers 9/2000 and 42/2000 at: <http://www.foreignpolicy.org.ua> ).

<sup>69</sup> See: "OSCE Mission to Moldova – Overview" at <http://www.osce.org/moldova/history>.

<sup>70</sup> "Moldovan Conflict Creates New Dilemmas for Ukraine" by Bohdan Nahaulo, RFE/RL Research report, Vol.1, # 20, 15 May 1992.

<sup>71</sup> "Ukraine Remains Alone" by Gennady Korzh, "Kiyevskiy Telegraph", 13-19.08.2001.

<sup>72</sup> For example, such a meeting that occurred on 22 October 2001 was perceived by one of the Moldovan analysts from the Institute for Public Policy as a "demonstrative meeting with a state criminal that is by itself an evidence that Ukraine, like Russia, do not wish to see Transdnistria within the territorially integral, sovereign Moldova". By all means, such a deduction from the very fact of meeting is too emotional and far-reaching, demonstrating a special sensitivity of Moldova's public to the whole issue rather than anything else.

Surprisingly, assumed Ukrainian plans and ambitions relating to the Transdnistrian region become also a matter of consideration by a number of political analysts and experts engaged in studying regional conflicts. As was noted by one of researchers, “further hardening the attitudes of the Russian population were widespread rumours that Ukraine and Romania were preparing to make a swap of the Transdnistrian region to be returned to Ukraine in exchange for Ukraine’s turning over former Romanian territory now within its borders. Even though the government of Ukraine went to great lengths to deny that such a possibility was being ever considered, it nonetheless gained considerable credibility among major portions of the Russian population of Transdnistria”.<sup>73</sup> What appeared as a further surprise for Ukrainian authorities and society as a whole was that some vicious intentions of Ukraine to avail from this conflict by annexing the disputed territory were also seriously considered by some researchers and analysts. In particular, a quotation from a paper published by such a respectable agency as The Conflict Studies Research Centre (Directorate General Development and Doctrine, Royal Military Academy Sandhurst, England), could be present as a striking illustration. It reads as follows: “Officially Kyiv was definitely coherent in supporting the withdrawal of the Russian Army from Transdnistria and the maintenance of the integrity of the Republic of Moldova, although it could not control the involvement of some paramilitary units (UNO-UNSO) that fought on the side of separatist guards against Moldova. Needless to say, the ethnic dimension persisted in Ukraine, as many diplomats and politicians saw the independence of ex-MSSR as very fragile, and started to prepare themselves for a scenario of fast annexation of PMR territories to Ukraine, a policy strongly opposed by Russia, who strove to maintain this strip of land for whatever reasons and arguments as a region of strategic interest. From Tiraspol's point of view, a scenario of annexation by Kyiv was clearly an option, but not without conditions. They would condition their adherence to Ukraine by a significant regional autonomy, which was viewed as not too appealing to Kyiv. In fact, Ukrainian authorities would fear to keep intact a politically strong autonomy as a link to Novorossia, a chain of Russian speaking oblasts which starts in Tiraspol, and ends in Crimea. Obviously, by taking this step, Ukraine would easily become the target of several neighbouring countries, deprived of their historical provinces by Tsarist and Soviet leaders to the benefit of the current Ukraine, and which given a chance, would claim back their old territories...”<sup>74</sup> This extended quotation and other similar considerations may serve as a clear demonstration of how poorly Ukrainian realities, troubles, and concerns are understood from the outside.

**Recent Developments.** Unfortunately, positive trends in the whole process of Transdnistrian conflict settlement seemed to stagnate in 2000, and later developments can be regarded rather as its deterioration that was stipulated by general destabilization of the Moldovan political situation, and immediate availing from this by the Transdnistrian leadership that took this advantage to strengthen its independence from Moldova. The reasons for this – to be assessed and analyzed by all interested parties - seem to be of particular importance for the future of both Moldova and Ukraine, and should be well learnt as a bitter lesson by populations of both countries.

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<sup>73</sup> “Disintegrating States” by P.Terrence Hopmann (Brown University), p.16-17, at: <http://www.ccpdc.org/pubs/zart/ch6.htm>

<sup>74</sup> “Social Multipolarity in Moldova” by Igor Munteanu, CSRC, p. 31, at: <http://www.ppc.pims.org/Projects/csrg80moldova.htm>.

**Return of communist rule in Moldova – a lesson for Ukraine.** In retrospect, negative trends in Moldova's general situation and particularly, in the attempts to reach some progress in settling the Transnistrian crisis seem to be triggered by the events following the decision of the parliament of Moldova to restrict powers of the then President Petru Lucinschi by constitutional amendments in July 2000. A failure to agree on his successor caused a constitutional crisis, the parliament was then dissolved and early elections were called for February 2001. Destabilization of the internal political situation in the Republic of Moldova was immediately availed by the authorities of the Transnistrian region that in a very provocative move of August 2000, established its own Foreign Ministry, a representative of which subsequently attended a Russian-sponsored "summit conference" with the invited "foreign ministers" of Abkhazia, Nagorno-Karabkh, and South Ossetia.<sup>75</sup> The self-proclaimed PMR also began to use its own stamps and seals at customs clearance.

Meanwhile, at the noon of the 2001 parliamentary elections in Moldova, one more attempt to push forward the negotiations process at the level of Ministers of Foreign Affairs of Ukraine, Russia and Moldova (Kharkiv, February 16, 2001) was undertaken by Ukraine. It looks, however, like a kind of repetition, in a weaker version, of basic principles agreed upon earlier. In the document signed by the three Foreign Ministers it was said that "having discussed the results of the negotiation process on regulation of the conflict consequences in the Transnistrian region of Moldova, [they] welcome the resumption of dialogue between Chisinau and Tiraspol within the framework of the existing mechanism of negotiation process that has become possible due to combined efforts of both sides and mediators. It was noted that in the course of the last meetings in Budapest and Kyiv, the parties of the negotiation process had worked out a common vision of possible ways of reaching final settlement of the crisis."<sup>76</sup>

This cautiously optimistic vision, however, has not been confirmed by the events that ensued after the communists came to power as a result of the Moldovan parliamentary elections on 25 February 2001. (The PCRM won just over 50 % of the vote, and gained 77 seats out of 101; since in Moldova, the president is chosen not by popular elections but by parliament, in early April 2001 the PCRM leader Vladimir Voronin was elected as the country's new president).

For the time being, after communist rule in Moldova has lasted for over a year, it is already possible to compare their pre-election promises and intentions with actual results of the activities in all of the main spheres of public life, domestic and foreign policy. In particular, the inaugural address by the leader of the Moldovan Communist Party (PCRM) Vladimir Voronin should be recalled. Voronin criticised his predecessors saying that they had reduced Moldova to humanitarian catastrophe and dire poverty, and had brought Moldova the unhappy distinction of being the most corrupt country in Europe and the poorest country in the CIS. He declared his wish to create "modern socialism" by forging closer ties with Russia and increasing the role of the state to improve the economy, which has shrunk by two-thirds since 1991. According to his words, Moldova should become a "European Cuba" that must hold out against "imperialist predators" in Europe, as Cuba had in the Americas.<sup>77</sup> At the same time, observers noted conspicuously absent statements

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<sup>75</sup> "Moldova/Transnistrian Conflict" by Robert Cutler, Foreign Policy in Focus, November 6, 2001 (available at [http://www.fpif.org/selfdetermination/conflicts/moldova\\_body.html](http://www.fpif.org/selfdetermination/conflicts/moldova_body.html)).

<sup>76</sup> Joint Statement by the Ministers for Foreign Affairs of Ukraine, Russia and Moldova, Kharkiv, February 16, 2001.

<sup>77</sup> BBC NEWS. Country profile – Moldova. 8.03.2002.



about making Moldova a member of the Russian-Belarus Union, and to give Russian language official status – the promises widely used during the PCRM election campaign.<sup>78</sup> With respect to the Transdnistrian conflict, on the very day of his election as a President of Moldova, Voronin told journalists that solving the problem of the breakaway region of Transdnistria would be a matter of priority.

**Moldovan Communist government and Transdnistrian conflict.** Indeed, there was a short period following communist victory when a prospect of reconciliation between the central authorities and those of the breakaway region seemed realistic.<sup>79</sup> In particular, it could have been expected that the pre-election Communist declarations on bringing Moldova into the Russia-Belarus Union, and introducing Russian as the official language would promote further approximation of the positions pertaining to both Igor Smirnov and Vladimir Voronin.<sup>80</sup> It was already announced by some political analysts that “after national elections of 2001 in Moldova the contacts between the President of Moldova and the leader of Transdnistria have intensified. A new agreement by them was signed on 16 May 2001 in Tiraspol”.<sup>81</sup>

It should be noted, however, that from the very beginning of this new stage of Moldova-Transdnistria dispute, despite the Voronin’s declared intention to make settlement of the problem of the breakaway region of Transdnistria a priority, actual developments by no means showed that this commitment was also shared by the other side. For example, in defiance of the official invitation sent to Tiraspol, not a single representative of the PMR authorities visited a ceremony to greet the newly elected Moldovan president.<sup>82</sup> On April 9, the first meeting between Voronin and Smirnov did take place, and it was agreed to hold regular monthly meetings to speed up negotiations toward resolving the 11-year-long dispute. However, very soon, on 13 May 2001, those good intentions of the Moldovan government to improve relations with the leadership of the Transdnistria region were subjected to a difficult trial. That day, border guards at a checkpoint between Transdnistria region and the rest of Moldova prevented president Voronin, who was going to visit the monastery Noul Neamt, from crossing the (de facto existing) Moldovan-Transdnistrian border, and told him that the order to bar his entry had been given by what they called “a higher authority” in Tiraspol.<sup>83</sup> And though this (intended?) offence aimed, perhaps, at making impossible the next round of bilateral negotiations scheduled for May 16 in Tiraspol, the meeting did take place. A number of agreements were signed, including those on economic cooperation, the free access of journalists to cover news events on the two sides of Dniester, coordination of tax policies, removing custom points, guaranteeing foreign investments, and recognition of each side’s official documents. Although these agreements have been considered as a tentative first step towards larger autonomy for the breakaway region, this step did not lead to actual improvement of bilateral relations that remained tense, or to the implementation of the above decisions. The same pertains to the previous gesture of the Transdnistrian officials of releasing Ilie Iliascu, who spent nine

<sup>78</sup> “Moldova Elects New Communist President” by Angela Sirbu, TOL Week in Review, 2-8 April 2001.

<sup>79</sup> “Communist Party Wins Elections” by Ron Synovitz, RFE/RL Newswire, 26 February 2001, at:

<http://www.rferl.org/nca/features/2001/02/26022001115222.asp/>

<sup>80</sup> “Communists of Moldova and the Future of the Country’s Ethno-Political Conflicts” by Priit Jarve, ECMI Brief # 3, March 2001.

<sup>81</sup> See “Transdnistria Table” issued by ECMI, available at

[http://www.ecmi.de/cps/documents\\_moldova.html](http://www.ecmi.de/cps/documents_moldova.html).

<sup>82</sup> “Moldova Elects New Communist President” by Angela Sirbu, TOL Week in Review, 2-8 April 2001.

<sup>83</sup> “Moldova: Transdnistria Denies President Access to Monastery” by Eugen Tomiuc, RFE/RL, 15 May 2001.

years in prison on charges of pro-Romanian terrorist acts. According to some analysts, Igor Smirnov's decision to liberate this political prisoner in fact only strengthened his standing by showing him to be a magnanimous leader with whom one can negotiate. Also, since this move was believed to be stipulated by the intervention of the Russian Foreign Minister Igor Ivanov, it was therefore regarded as strengthening the separatist's position and Russia's influence in the region.<sup>84</sup>

Indeed, the communists' victory in parliamentary elections in Moldova did ensure its closer ties with Russia, and more benevolent attitude of the Russian officials towards the two main contested issues – the status of Transdniestria and the presence of Russian troops in the region. These unresolved issues prevented the two countries from signing a basic treaty for 10 years following Moldova's independence. Frequent visits to Moscow by president Voronin, and his negotiating such a treaty eventuated by a success. Bilateral treaty was finally signed, and Moldova seemed at last gaining official Russian recognition of its independence and territorial integrity. This treaty, having been promptly ratified by the Moldovan parliament, later has also been ratified by the Russian Duma.<sup>85</sup> However, neither this treaty nor further concessions made by the new government of Moldova to Moscow as well as to Tiraspol, promoted any real advancement in settling the frozen conflict. As William Hill, the chief of the OSCE mission to Moldova, told journalists in Chisinau on 13 July 2001, after a fast start the negotiations between Moldova and the separatists have "slowed down". He also said that the complicated problems of the Transdniester's "special status" necessitate making "bigger compromises" and that this takes a longer time, though added that "in general, the situation is positive and must be so maintained by proceeding without further delays in implementing solutions already agreed on". Hill also informed that OSCE member states have begun contributing to a fund that would finance the dismantling of those parts of the Russian arsenal that cannot be evacuated from the Transdniester.<sup>86</sup>

Additional difficulties have also arisen with regard to Russia's obligations under an agreement signed in 1999 at the Istanbul summit of the OSCE, which called for the removal of the military hardware by the end of 2001, and removal of equipment, light ammunition, and withdrawal of all of its troops by the end of 2002. Despite Voronin's frequent visits to Moscow, and meetings and discussions with the RF president Putin, those operations have often been halted by the protests coming from the breakaway Transdniestrian region, with wide possibilities for Russia to refer to them while pursuing its own interests. Indeed, in 2001 Russia began destroying weapons and ammunition deposited in the region, and taking away military hardware.<sup>87</sup> But the operation was suspended in the end of August "because of protests by Transdniester residents".<sup>88</sup> (In August, a group of protesters from Transdniestria prevented OSCE observers from entering the area where the Russian military equipment was arranged to be destroyed. Other protests against the removal of the equipment took place in Tiraspol and other cities of Transdniestria). Transdniestrian officials often expressed their general discontent with the

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<sup>84</sup> "Moldova: Release of Transdniester Prisoner Fails to Ease Tensions with Romania" by Eugen Tomiuc, RFE/RL, Prague, 17 May 2001.

<sup>85</sup> "Moldova: Russian Envoy Says Moscow to Keep Troops in Transdniester" by Eugen Tomiuc, RFE/RL, 4 February 2002.

<sup>86</sup> RFE/RL NEWSLINE Vol. 5., # 132, Part II, 16 July 2001.

<sup>87</sup> "Last Trainload of Russian Hardware Leaves Transdniester" by Angela Sirbu, TOL Week in Review, 13-19 November 2001.

<sup>88</sup> "Russia: Moldovan President Meets Putin in Moscow" by Eugen Tomiuc, RFE/RL, Prague, 4 September 2001.

plan, and called off their protests only after Moscow promised to cancel approximately \$300 million in Tiraspol's gas debts, which amounts to about one-third of the province's total debts for gas. Therefore, according to Russian officials cited in the Moldovan media, on 14 November the final trainload of Russian military hardware was shipped out of the breakaway province, though local observers expected that Russian military would have a harder time meeting the deadline for defusing the estimated 40,000 metric tons of ammunition, which has been stored in depots in the Transnistrian city of Colbasna.<sup>89</sup>

Most recent events suggest even more rigid position to be taken by Russia, which is now considering maintaining its forces in the region as peacemakers. According to the RFE/RL, Russian Deputy Foreign Minister Vyacheslav Trubnikov, Moscow's top mediator in the dispute between Moldova and Transnistria, during his visit to Moldova on 31 January-1 February did not deny reports that Moscow was working on an additional agreement to keep Russian forces (about 2,500 soldiers constituting the so-called Transnistria Operative Group of Russian Troops) in the breakaway region as "peacekeepers." After meeting with separatist leaders in Transnistria Trubnikov said that Moscow will fulfill the 1999 agreement, but that Russian forces may stay in Transnistria to help consolidate a future agreement on the region's status, and admitted that "Russian troops do not intend to leave [Transnistria]. We will fulfill [the 1999 OSCE agreement] even more actively, in the hope that [the] OSCE, too, will be interested in having guarantees for the [future] Transnistria status and for consolidating this status... We will discuss this problem with our colleagues within the OSCE."<sup>90</sup>

Portuguese diplomat Manuel Marcello Curto, the OSCE's representative in the Transnistria dispute, said the organization has not yet received a concrete proposal from Moscow regarding its troops. Curto, during his fact-finding mission to Moldova, said on 1 February 2002 that "If it [the proposal] comes to the [OSCE] forum, we will have to have an extremely serious debate with Russians within the OSCE, but I would prefer not to imagine things, not to put [forward] hypotheses. I would like to wait for the evolution of the events. I repeat myself, as far as of today, February 1, 2002, the Russian Federation has not put forward any idea of a peacekeeping operation."<sup>91</sup>

The next turn of further escalated tensions between Moldova's central authorities and those of the separatist Transnistria relates to the internal political crisis in Moldova for which the communist government is fully responsible (addressed in more detail in the Appendix). Exhibiting impotence to manage the widespread crisis caused by certain decisions of parliament and government of Moldova, president Voronin on 4 March 2002 claimed that the large-scale public protests were being paid for out of a fund of \$200 million set up by the leader of the breakaway region of Transnistria.<sup>92</sup> These allegations, ridiculed by the opposition media, have been a striking illustration of the incompetence and inability of the Moldovan communist government to achieve any positive results in settling the Transnistrian conflict, and confirm its eventual and final failure. From the outside of Moldova, this situation presents a kind of paradox, because pro-Russian, anti-Western and anti-Romanian aspirations of the now empowered party seemed quite closely coinciding

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<sup>89</sup> "Last Trainload of Russian Hardware Leaves Transnistria" by Angela Sirbu, TOL Week in Review, 13-19 November 2001.

<sup>90</sup> "Moldova: Russian Envoy Says Moscow to Keep Troops in Transnistria" by Eugen Tomiuc, RFE/RL, 4 February 2002.

<sup>91</sup> Ibid.

<sup>92</sup> "Moldova: A Transnistrian Plot?" by Iulian Robu, TOL Week in Review, 5-11 March 2002.

with those of the Transdniestrian leadership. (Let us recall that to justify their separatist “state-building” activities, the PMR’s authorities always referred not only to the short but bloody conflict of 1992, but also to the persisting threat of Moldova’s unification with Romania, and to the “ethno-nationalist forces” that turned the Moldovan SSR into the independent Republic of Moldova). Therefore, although all other communist promises were obviously doomed to fail, this one might have occurred to be realistic. Whereas in fact, the Transdniestrian leadership is now not inclined to accept any kind of compromise lower than a confederation of “two equal states”, therefore, a regress rather than progress has been the “achievement” of the policy undertaken by Moldovan communist authorities. In this context, no wonder that the last attempt of Ukraine to push forward the reconciliation process has failed, too. (In the beginning of January 2002, Ukrainian president proposed to both Moldovan and Transdniestrian authorities to meet at the territory of Ukraine, but this proposal was blankly rejected by the official diplomatic response from the Moldovan Foreign Ministry <sup>93</sup>).

From these developments it is also evident how little dividend, in the context of the Transdniestrian conflict, Moldova’s new rulers received from its “closer relations” with Russia, to which all the hopes to settle this conflict had been linked. It seems obvious that over this period, the self-proclaimed PMR only strengthened what it is called its “statehood”, and that this turn has had a negative impact on the Ukrainian security situation, and on the regional stability as well.

In terms of bilateral Ukrainian-Moldovan relations, aggravation of the Transdniestrian conflict has also contributed to their further deterioration. One can speculate that facing the results of their failed policy, Moldova’s authorities resorted to the traditional for communist ideology receipt of looking for the internal and external enemies to make somebody else responsible for their own mistakes and drawbacks. This time, their conventional adversaries consisting, apart from Transdniestrian leaders, of West, NATO and, of course, Romania, seemed to be supplemented by Ukraine. This might have rather negative consequences, especially taking into account traditionally tense pre-election situation in Ukraine sensitizing the society to various influences. This time, the election campaign has been accompanied by the intensified pressure on Ukraine of different political forces, concerned not only with the situation in Crimea (where registration of the leader of Crimean communist, and speaker of Crimean parliament Leonid Hrach was cancelled by a court’s decision), but also by what was named “the desire of Ukraine to play a role of new regional leader”. <sup>94</sup> In particular, highly provocative statements appeared in Russian media, like, for example, “Ukraine seems to be favouring an idea of taking under its jurisdiction both Transdniestria and Gagauzia” (!!!?) in order to slacken Russian influence in the region”. <sup>95</sup> At the same time, Moldovan media reports referred to signs of “warmer relations” between Kyiv and Tiraspol, and charged Ukraine with the attempts to influence international organizations in order to make them more benevolent towards Transdniestria. In particular, the Moldovan deputy Foreign Minister Ion Stavile has been quoted as saying that “in Memorandum recently provided by Ukraine to international organizations, pro-Tiraspol attitudes are clearly expressed concerning Moldova’s introduction of new customs regulations” <sup>96</sup>. Even more unexpected for Ukrainian politics

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<sup>93</sup> “Epistolary Negotiations” by Vladimir Verbitsky, 29.01.2002, at: <http://www.versii.com>. (in Russian).

<sup>94</sup> “Russian and American Factors in Ukrainian Elections Begin to Emerge from a Shadow” by Anatoliy Rudyi, 04.03.2002, at: <http://part.org.ua>. (in Russian).

<sup>95</sup> APN, 14.02.2002 (in Russian).

<sup>96</sup> “Nezavisimaya Moldova”, 08.02.2002.

came speculations on the agreeable perception of the information on certain rapprochement between Ukraine and Transnistria by... the USA Ambassador to Ukraine, due to which the USA is “more and more inclined to recognize the right of Transnistrian population to determine their political future”.<sup>97</sup> Such irresponsible speculations would certainly make no good for either Ukraine or Moldova, while rendering bilateral relations more and more tense – for whose benefit? Whereas according to Ukrainian media reports, during the recent informal CIS summit in Kazakhstan, Ukrainian president Kuchma, conferring with the Moldovan president Voronin, confirmed once again Kyiv’s commitment to keep friendly and good neighbourly relations with Moldova, and to settle the Transnistrian conflict proceeding from the notion of preserving Moldova’s territorial integrity.<sup>98</sup>

It should also be noted that during the recent acute political crisis in Moldova, an official statement by Ukrainian government on the matter was that “while the situation in today’s Moldova raises deep concerns in Ukraine, because Moldova is our friendly neighbouring country and our partner in GUUAM, Ukraine has no intention and is not going to interfere into its internal affairs, as well as into those of any other state” (a statement by Igor Dolgov, official representative of the Ukrainian Ministry for Foreign Affairs.<sup>99</sup> Whereas president Voronin expressed the intention to provide support for Ukrainian communists during the forthcoming parliamentary elections, thus eliciting rather angry reaction in Ukraine followed by addresses delivered to a number of the CoE structures. Such intentions were characterized as violation of international law standards and, inter alia, of the Charter of the CoE of which both countries are member states. According to Vasiliy Kostytsky, the Vice-President of the European People’s Party group of the CoE Parliamentary Assembly, this move is a direct interference into the Ukrainian internal affairs that may also lead to escalation of confrontation in Europe.<sup>100</sup> (Though it should be admitted that much more scandalous interference of Russia into the election campaign in Ukraine, caused by passions around the cancellation of registration of the Crimean communist leader Leonid Hrach, brought about much milder and more restrained protests of the Ukrainian authorities).

The most important lesson to be taken from this story is that working together as a team for reaching progress in Transnistrian conflict settlement, Ukraine and Moldova would have much better chances to succeed than when giving in to mutual distrust, suspicions and accusations. Whenever the discontent between our two countries has been surfaced, the Transnistrian side of the conflict is the one to benefit, and to continue strengthening its de facto independence from the Republic of Moldova. One more obvious consequence is that worsening of the Ukrainian-Moldovan relations objectively strengthens Russia’s grip on its former subjects, and inevitably facilitate its efforts to remain the strongest and most influential regional power.

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<sup>97</sup> “Crisis in Moldova” by N. Serova, “Zavtra”, 21.02.2002. (in Russian).

<sup>98</sup> “Kuchma and Voronin Discussed Relations between Ukraine and Moldova”. 02.03.2002, at: <http://part.org.us>. (in Russian).

<sup>99</sup> “Ukraine is Concerned with the Unrest in Moldova”, 26.02.2002. at: <http://part.org.ua>. (in Russian).

<sup>100</sup> “Intentions of Moldovan President to Provide Support for the CPU at the Elections Are External Intervention into the Internal policy of Ukraine”, 28.02.2002, at: <http://part.org.us> (in Russian).

## **Results of a domestic policy of ruling Communist Party of Moldova as a lesson for Ukrainian electorate.**

During the early stage of communists governing the country, things might have been perceived as going not so bad – in compliance with the vision that today's communists are already not the same as those in Soviet times, and being closer to the modern European Left. Indeed, the first steps of the Moldova's president Voronin displayed his desire to balance between the country's eastern neighbours and the West, in contrast to the overt condemnation of "imperialist predators" made in his inaugural speech. Moreover, just during the past year, Moldova has managed to join the two international agencies, namely, the Stability Pact for Southern and Eastern Europe and the World Trade Organization, thus proceeding well ahead of Ukraine that is pursuing similar aims. Although the socio-economic situation of Moldova remains difficult, and the country is officially recognized as the poorest in Europe, according to the governmental report, Moldova registered a 4 % growth in GDP and a 3,3 % reduction in the inflation rate during the first half of the 2001.<sup>101</sup> The Prime Minister Vasile Tarlev admitted, however, that the economic growth, to a large extent, resulted from the improving economic situation in neighbouring countries – Russia, Ukraine, and Romania – on which the Moldovan economy relies. At the same time, huge external debt that amounts to 40 % of the budget (in contrast to 10-12 % in previous years), and suspension of relations with international financial institutions create not especially optimistic prospects for further developments. What gave some hopes was the strong criticism of government's activities provided then by president Voronin when 100 days of new government were evaluated. According to a local analyst, while criticizing both the government and the parliament that "had become increasingly dictatorial", Mr. Vladimir Voronin actually opposed orthodox communist doctrine, and this speech contrasted sharply with his inauguration speech.<sup>102</sup>

These steps, together with the initial restrain from implementing the promises to bring Moldova into the Russia-Belarus Union, and to make Russian the second official language, allowed one to expect rather peaceful, evolutionary way of one more shift from communist to more liberal doctrine during the next regular elections, and of Moldova's European integration to be realized in a course of a natural change of generations. Such a forecast seemed to comply with the results of public opinion poll conducted by the Institute of Public Policy, and released on 4 December 2001. According to the survey, 38.9 % (instead of 50 %) would vote for the PCMR if the elections took place on 9 December, whereas the next largest group, 34,8 %, would not vote for anybody or were still undecided. These results have shown slow but sure drop of the communists' popularity, and still considerable confidence in president Voronin who has gained a support of 70 % of respondents (whereas Prime Minister Tarlev has had 43 %).<sup>103</sup>

Unfortunately, old habits of dealing with opponents seemed to prevail, and subsequent evident inability to improve the country's internal situation or achieve any progress in settling Transdniestrian conflict stipulated further moves of Moldova's communist government that destroyed completely all modest achievements, if any, that it might put on a display after the first months of coming to power.

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<sup>101</sup> "Moldova Evaluates 100 days of New Government" by Angela Sirbu, TOL Week in Review, 31 July - 6 August 2001.

<sup>102</sup> Ibid.

<sup>103</sup> "Survey Confirms the Popularity of Moldovan Communists" by Angela Sirbu, TOL Week in Review, 4-10 December 2001.

The first signs of the forthcoming crisis appeared as early as in June 2001, when the ruling party and president Voronin decided to “rewrite” the history (of Romania) now taught in schools, and in general, to change Romanian identity for the “Moldovan” one. This was met by rather sharp reaction of university professors, schoolteachers and students who organized in Chisinau a protest demonstration, then amounting to only over a hundred people. (It should be noted that in Moldova, a growing proportion of population regards Moldovan identity as artificially constructed by Stalin - the “father of Moldovan nation” - who created the Autonomous Republic of Moldova in 1924.)<sup>104</sup> However, instead of recognizing this reaction as an indication of a possibility of stronger protest actions, threatening to bring about a serious political unrest, and to restrain from pedalling the issue, communist authorities made the next unwise step by supplementing “Moldovanization” with the prospect of the reversed “Russification” of the country. According to the governmental decision dated 18 December 2001, from 1 January 2002, Russian should have become mandatory in primary schools, and receive a status of an official language, “to be used by central public authorities, the organs of central and local public administration, the judiciary, and in other walks of the state’s social life”.<sup>105</sup>

The subsequent events developed impetuously, and protest actions gained impetus with each next week. For better understanding of the on-going processes, and in order to identify the main stages of the developing political crisis, the available information has been arranged chronologically, with a prospect of presenting also a clearer picture for Ukrainian readers (see Appendix).

The chronicle of a political crisis brought about by the ruling communist Moldovan government, as well as the following developments, can serve to summarise all the misfortunes that the reverse from democracy to old, Soviet-type policy can impose on the population of a post-Soviet country. And though a brief account on these drastically destabilising events would be no news for either Moldovan or Romanian societies, for Ukraine this information is of outmost importance and topicality.

Because, though lard-line leftists in Ukraine have already had practically no chances to win a decisive majority in the next parliament – as the actual results of the parliamentary elections on 31 March 2002 proved convincingly - the rhetoric used by many political parties claiming to be “centrists” in certain points resembled closely that of Moldovan communists. Also, the attempts of the incumbent power-holders to strengthen their positions by relying on the support from Russia were evident. These turns of Ukraine’s policy increase each time when their actual or alleged crimes, or simply reluctance to push forward democratic reformation of the old structures inherited from the previous regime, compel the West to distance from Ukraine, and to agree with leaving it within the Russian sphere of influence. What an outcome could follow is convincingly illustrated by the Moldova’s recent hard experience. Therefore, this lesson should be learnt in every detail, and the appropriate conclusions drawn. To make this process more effective, trilateral cooperation at all levels – from governmental to various civil society structures - within the Ukraine-Moldova-Romania framework is highly desirable. Establishment of such an axis would contribute greatly to the decisive European integration of all three countries, and

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<sup>104</sup>See “Protesting “Moldovanism” by Angela Sirbu, TOL Week in Review, 12 – 18 June 2001, and. “Making Moldovans More Moldovan” by Octavian Sofranksy, TOL Opinion, 31 August 2001.

<sup>105</sup> See “Moldova: Education Officials Introduce Russian As Mandatory Foreign Language” by Eugen Tomiuc, RFE/RL, Prague, 21 December 2001., and “Moldova: Just Say Nyet” by Angela Sirbu, TOL Week in Review, 8-14 January 2002.

would ensure addressing in a coordinated manner a number of crucial problems of regional security – first and foremost, the Transdniestrian conflict.

The future of Moldova after the crisis is overcome would only benefit if traditional close ties with Romania are re-established, are supplemented by turning Ukraine, its another neighbour, into one more genuine ally. Much of hard work has to be done for this, but such an accomplishment would be a real asset for both countries, as well as for strengthening regional and European stability. Concrete steps for starting such a rapprochement could be proposed by each side, and be discussed and agreed upon at a joint meeting – the sooner the better.



## APPENDIX

### **Moldova: A Chronicle of a Political Crisis** <sup>106</sup>

**9 January 2002:** the storm of protests over the introduction of mandatory Russian classes in schools and the decision to make Russian the second official language erupted in the capital of Moldova; thousands of young people, members of intelligentsia and representatives of ethnic minorities organized demonstrations in the main square of Chisinau. The banners and posters claimed: “Down with the Communists”, “Stop Russification”, and “We want to Europe”. Demonstrations continuing the next weeks attract more and more participants.

**22 January 2002:** Moldova’s Communist government temporarily suspended the activity of the country’s main opposition party – the Popular Christian Democratic Party (PPCD) – for “inciting public demonstrations” to boost the status of the Russian language. Moldovan Minister of Justice Ion Morei warned that if the antigovernment demonstrations continue, the party might be permanently banned. This move intensified protest actions, and sparked harsh criticism abroad, accusing Moldova’s communist leadership of openly violating democratic principles. Walter Schwimmer, General Secretary of the CoE, called the decision “disproportionate” and “in violation of the principle of freedom of expression”, whereas Adrian Severin, president of the OSCE parliamentary Assembly, acknowledged with great concern “the deterioration of the political dialogue in Moldova, as well as the ever-increasing number of measures taken by the country’s leadership which might decouple the country from European value structures and institutions”.

**31 January 2002:** the PPCD has sent a letter to the CoE, claiming that non-Russian ethnic minorities in Moldova “continue to be the victims of an assimilation policy through the russification promoted by state authorities”. The letter also provides important data on a number of pupils belonging to different ethnic and religious groups. According to current Education Ministry data, 36,601 (6.19 %) of pupils are Ukrainians whereas Russians constitute 31,270 (5.28 %). It follows that “Despite the legislative framework, the actions of the Moldovan authorities prove that the largest group of pupils belonging to national minorities became the target of a rough assimilation policy through russification. These pupils do not study in their mother language, but in the language of another ethnic minority. Thus, out of the 36,601 pupils of Ukrainian origin, 36,297 are studying in the Russian language, and only 374 pupils in the Ukrainian language,” the letter reads.

**3 February 2002:** the Secretary General of the Council of Europe Walter Schimmer demanded explanations from Moldova concerning its political and human rights issues according to Article 52 of the European Convention on Human Rights. (It was only the second time that the Council of Europe had employed the same article of censure, Article 52. The previous instance related to Russia’s record in Chechnya).

**19 February 2002:** the number of protesters growing, this day it surpassed 40,000. Protests also spread to Moldova’s second-large city, Balti, where some 200 students demonstrated in solidarity with the striking students in the capital. The demonstrators’ demands, which initially were limited to ending mandatory Russian classes for schoolchildren and pro-Russian history textbooks, were expanding. This day, for the first

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<sup>106</sup> This Chronicle is based upon the information available at Web portals of the RFE/RL Newsline and TTransitions Online (TOL)

time, they demanded the government, president, and parliament to resign. PPCD's leader Iurie Rosca addressed the demonstrators saying, "The time has come for us to save democracy in Moldova, to do away with communism for good." He invited the parliament that will hold the next day a special session to examine the socio-political situation in Moldova, "to do this together with the Christian Democratic MPs and that the session be broadcast live on television and radio". Later on, when the protesters passed by secret police headquarters and then the Russian Embassy, they chanted, "We don't want a Bolshevik president!" and, "We don't want any more communists or KGB!" as well as, "Down with the occupiers!" The same day, the Russian Foreign Ministry protested against what it termed "anti-Russian actions aimed against the Russian Embassy" in Chisinau, condemned the organizers "from inside the country or outside it", and warned that these protests risk unleashing yet another conflict in Southeastern Europe.

**20 February 2002:** parliamentary session canceled, apparently at the behest of the Communists (who have 71 out of the 101 seats in parliament whereas the opposing PPCD has just 11 seats). The head of another opposition party, Dumitru Braghis of the Braghis Alliance, backed the Christian Democrats' call for the resignations of the government and president, saying Moldova needs a government that can help improve the economic situation.

**21 February 2002:** president Voronin delivered a speech to the nation. He said that the country was being "affected by the virus of nationalism, extremism, and madness". He also strongly condemned the PPCD and its leader Iurie Rosca, calling them "political terrorists".

**24 February 2002:** anti-governmental demonstrations reached a peak; a meeting held on the Chisinau central square attracted 70,000 (according to other sources about 80,000), the highest number since demonstrations began on 9 January. Either national television or national radio has not broadcast any news about the demonstrations. Earlier this day, tens of thousands of anti-protest leaflets were dropped from a plane. Demonstration organizers told the press that the traffic police had received an order on 23 February to conduct technical checks on buses that would eventually take protesters to Chisinau. Moreover, the organizers claimed that in the counties of Soroca, Balti, and Lapusna, the police abusively withdrew buses' license plates and technical control certificates in order to keep drivers from transporting participants to the capital city.

**26 February 2002:** National Television staff members presented a declaration to the management with demands to counter censorship and interference by the Communist government. The demands were later endorsed by about 500 employees of the national radio service, Teleradio Moldova. "The company has become a brainwashing tool used against the population, and news consumers are deprived of the right to receive accurate and balanced information," the declaration said, referring to national and international legislation guaranteeing such rights. The declaration also stated that "the authorities have reinstated Soviet-style political censorship at the national radio and TV stations."

**1 March 2002:** at a meeting of the heads of CIS countries president Voronin said that he hoped to create a bilingual country. His vision of it consists of: "all Russians and Ukrainians of Moldova would speak "Moldovan", and all Moldovans would also speak Russian, thus creating "a true bilingualism". This intention was highly praised by Russian president Putin, who thanked Voronin for the successful settlement of problems relating to

Russian language functioning in Moldova, and assessed the current policy of Moldovan authorities as “politically correct, well balanced, and aimed at satisfying all political forces by democratic means”.

**4 March 2002:** the Constitutional Court of Moldova ruled that the bill to make Russian the second language was unlawful. Meanwhile, president Voronin who repeatedly accused Romania of interfering in Moldova’s affairs, went further by claiming that the protests – both in the media and in the Chisinau downtown – were paid for from a special fund established for this purpose by the Transdniestrian leader Igor Smirnov.

**5 March 2002:** the management of Moldova state television forbade journalists to broadcast about the ongoing protests in Chisinau. When the news announcer attempted to read the text of the station's report on the protests, audio was cut off and the broadcast was interrupted. After being restored, the announcer attempted to read out the text of a protest by journalists against President Vladimir Voronin, but audio transmission was again cut. Some 4,000 employees at TeleRadio Moldova continue a "Japanese strike", performing their duties but declaring that they are on strike.

**7 March 2002:** the European Popular Party (EPP, holding a majority of seats in the European Parliament and - along with the PPCD - being a member of the Christian Democratic International) expressed "high concern" at developments in Moldova. It adopted a resolution stressing that "the latest events in Chisinau may be regarded as an attempt to demolish a state based on the rule of the law; a failure to respect human and minority rights; a limitation of the judiciary's power; control and censorship of the media; and television in particular." The statement also criticized the "harassment of the opposition and political persecutions, including several members of the Christian Democratic Popular Party (PPCD); the undermining of local autonomy and the excessive politicization of the state administration; the halt in the privatization process and threat of a recollectivization of the national economy; the blockade of foreign investment and relations with international lenders; the violation of international treaties.

**14 March 2002:** the European Parliament passed a resolution on the human rights situation in Moldova. The resolution, forwarded by the European People's Party and European Democrats (EPP-ED), calls on the government and the parliament of Moldova to "refrain from any decision that may endanger the social and political stability of the country" and to "continue the process of economic and social reform as a demonstration of the sincerity of its international commitments established, also in the framework of the Partnership and Cooperation Agreement between Moldova and the European Union and the WTO". At the same time, the European deputies urged the Moldovan government to fully respect basic democratic rules and procedures, to guarantee respect for basic human rights and the rule of law, and to not abuse its political majority to dissolve the democratic opposition. Noting that Europe monitors "with growing concern the persistent conflict on crucial principles and matters of democracy between the Moldovan government and the Christian Democratic Popular Party (PPCD)," the European parliamentarians condemned the government's attempts to curb the opposition by its proposals to dissolve the opposition PPCD and to lift the parliamentary immunity of its leaders. They also noted with concern the recent decisions by the government regarding the introduction of Russian as the second official language of Moldova and the mandatory teaching of the Russian language in the Moldovan educational system, as well as the administrative reorganization of the country aiming at a return to the former Soviet style of local administration. The European

Parliament also indicated the lack of success in economic development and reiterated that Moldova is at present the poorest country in Europe. It was also said that the Council of Europe and the European Commission would assist actively within the mandate of the OSCE in the settlement of the conflict with Transdniestria.

**21 March 2002:** an outstanding member of the Moldovan opposition, Vlad Cubreacov, the deputy president of the Christian Democrat Popular Party (PPCD) and a member of both the Moldovan parliament and the parliament of the Council of Europe, went missing, leading the opposition to claim that disappearance is part of a continuing "campaign of political reprisals." A number of possible explanations have been floated, including the possibility that Cubreacov was kidnapped for his political activity.

**22 March 2002:** the Legal Committee of the Moldovan Parliament reviewed an appeal issued by the attorney general for the parliamentary immunity of Cubreacov, Rosca, and Secareanu (the leaders of the PPCD) to be lifted. The committee asked for further evidence of the parliamentarians' guilt and will reconsider the issue on 28 March. PPCD argues that, even if his Moldovan parliamentary immunity were lifted, "Vlad Cubreacov could not be prosecuted, arrested, or sentenced without consent from the Council of Europe in virtue of his European parliamentary immunity." It has called upon European governments and international organizations, to apply international legal norms "so as to put an end to the terror and dictatorship in the Republic of Moldova".

**23 March 2002:** the PPCD issued a press release claiming that "Vlad Cubreacov went missing at a time when the police and security forces reprimand and intimidate people throughout Moldova who have been participating in the anti-Communist protests since 9 January and who want to take part in the great popular assembly on 31 March." (PPCD Deputy Chairman Vlad Cubreacov disappeared on the night of 21-22 March.) The PPCD believes that either Communist activists or their supporters organized the disappearance of Cubreacov. "This act is part of a dangerous political campaign and was certainly orchestrated by anti-national, anti-democratic, and anti-European circles seeking to baffle the assembly at the end of March," the statement claims.

**25 March 2002:** the PPCD announced resuming daily protests and preparation "The Grand National Coalition of Voters to be held on 31 March. Prosecutor-General Vasil Rusu warned that the planned event has not been authorized and is illegal.

**26 March 2002:** OSCE Chairman in Office Jaime Gama visited Chisinau to discuss with Premier Vasile Tarlev and Foreign Minister Nicolae Dudau the current situation in Moldova, the stalled negotiations with the separatists authorities in Tiraspol, and the process of Russian arms evacuation. He said that the disappearance of Vlad Cubreacov has seriously affected Moldova's international image.

31 March 2002: between 50,000 and 80,000 protesters from all over Moldova attended the Grand National Assembly of Voters in Chisinau. A resolution was approved calling on the parliament to outlaw within 48 hours any fascist or communist party and their symbols. The protesters vowed to continue their actions until the government resigns. A resolution was adopted that also called on President Vladimir Voronin to resign, and early parliamentary elections to be run. Two separate declarations demanded clarifying the disappearance of PPCD Deputy Chairman Vlad Cubreacov, and the unconditional withdrawal of Russian troops from the Transdniester. Other opposition formations, among

them the newly established Liberal Party, sent representatives to the demonstration. Several thousand demonstrators remained in Chisinau's main square overnight.

**2 April 2002:** negotiations between protesters and government failed because delegation of the “National Committee for the Defense of Democracy”, speaking on behalf of the opposition, was received by second-echelon representatives of the government and the presidential office who blindly rejected all the demands (the cabinet resignation, early elections to be called, and the Party of Moldovan Communists to be outlawed along with fascist parties). The protesters announced that they would continue demonstrations, whereas Dumitru Braghis, leader of the Braghis Alliance, the strongest opposition parliamentary group, declared that his faction will boycott debates until a genuine dialogue is established between the government and the protesters, and that the government must resign and be replaced by one of national unity representing all parliamentary formations. The situation was further aggravated by the Bessarabian Metropolitan Church (under Bucharest jurisdiction) submitting again an application for being officially registered (in full compliance with the decision of the European Court of Human Rights obliging Moldovan authorities to register the church). Since Moldova’s appeal against this decision has been rejected, further resistance to observe the European Court’s decision may lead to Moldova’s expulsion from the Council of Europe.

**3 April 2002:** President Voronin accused the opposition of provoking "internal tension" and of being financed by Romania and the Transdnister. Former Premier Dumitru Braghis, who recently joined the opposition to demand that the government resign, was also charged with being on foreigners' payrolls.

**4 April 2002:** the parliament approved a recommendation of its Judicial and Immunity Committee to lift the immunity of PPCD Chairman Iurie Rosca and PPCD parliamentary group leader Stefan Secareanu. The decision on lifting PPCD Deputy Chairman Vlad Cubreacov's immunity has been postponed "until his disappearance" is elucidated, whereas Prosecutor-General Vasile Rusu I requested that the immunity of PPCD deputies Eugeniu Garla, Valentin Chilat, and Viorel Prisacaru to be also lifted. The same day, the National Council for the Defense of Democracy called on European and international human rights organizations to immediately act in order to "save democracy in Moldova." The council also appealed to the population to "display solidarity with the democratic opposition in its categorical protest against communist dictatorship."

Meanwhile, the Romanian government rejected all of the Vladimir Voronin's allegations, calling them "false and unrealistic." Romanian Government spokesman Claudiu Lucaciu said that ever since the tensions erupted in Moldova three months ago, the Romanian authorities have refrained from issuing official statements on the issue precisely to avoid creating the impression that they are involved in them in any way.

**5 April 2002:** pressure on protesters and intimidation of other opposition forces intensified. Some of the children of striking journalists at Teleradio Moldova were taken into custody by police for no apparent reason other than wearing badges with the national colours. Justice Minister Ion Morei demanded explanations from the Social-Liberal Party concerning its participation on 31 March in the “illegal” Great National Assembly of Voters. The same day, Russian Duma ratified the basic treaty with Moldova, and president Putin congratulated president Voronin with the 10<sup>th</sup> anniversary of diplomatic relations between the two countries.

**6 April 2002:** according to the PPCD leader Iurie Rosca, he came to help PPCD Deputy Valentin Chilat whom police tried to force into a car, and to abduct “just as they had abducted Vlad Cubreacov”.

**8 April 2002:** Chisinau city Prosecutor's Office has launched a criminal investigation against PPCD Chairman Iurie Rosca and PPCD deputy Valentin Chilat concerning their involvement in a tussle with police on 6 April. Rosca's claim that police officers treated them brutally and refused to identify themselves was denied by Chiril Motpan, the Head of the Public Relations Directorate of the Interior Ministry. He also stated that the ministry's employees are not obliged to identify themselves to anyone while operating on the street, but have the right to request identification from others at any time. Secretary General of the CoE called on the Moldovan government to refrain from using force, and expressed the CoE concern with the situation in Moldova. Two CoE rapporteurs on Moldova arrived in Chisinau for a fact-finding mission, focused in particular on a disappearance of Vlad Cubreacov (who is also a member of the PACE). A fact-finding mission to Moldova was also undertaken by Polf Ekeus, the OSCE High Commissioner on National Minorities.

The nonstop, around the clock protests continue, with dozens of tents being erected outside the parliament and presidential buildings. Parent's committees and staff members of various schools and high schools issued a statement that they intend to continue protest actions until the main request of the National Council of the Defense of Democracy (namely, resignation of the Communist government) is fulfilled.

**9 April 2002:** at a press conference, CE rapporteur Josette Durrieu characterized Moldova as a “country lacking democracy and a country whose integrity and sovereignty are not properly managed by the government.” He also said that current political crisis has been caused by the government attitude towards opposition. Both rapporteurs confirmed that Moldovan President Vladimir Voronin will not change his procedures for handling the crisis, but that he might agree to a referendum in order to end it.

**10 April 2002:** the Popular Christian Democratic Party (PPCD) submitted a complaint against Moldova to the ECHR concerning the decision of the Moldovan Supreme Court to stop the anti-governmental protests.

**11 April 2002:** the National Council for the Defense of Democracy initiated a dialogue with all anticommunist, non-corrupted groups sincerely devoted to democratic values and to aspirations of European integration. The aim of such a dialogue would be to identify optimal solutions to the ongoing political crisis in Moldova and to find common actions to fulfill the resolutions of the Grand National Assembly of 31 March. (Resolutions called for the legal ban on fascist, Nazi, and communist parties; the resignation of the Communist government; and for early parliamentary elections.) Meanwhile, the PPCD filed several lawsuits against Communist leaders, namely, two libel suits against President Voronin, a suit against the leader of the Communist parliamentary group Victor Stepaniuc, and against one more communist leader Vadim Misin. These suits followed Voronin's statement that PPCD leader Rosca is a political terrorist and that the PPCD leaders are willingly provoking street violence and making provocations in order to destabilize the political situation in Moldova. Stepaniuc claimed that street protests initiated by the PPCD were fascist and that the PPCD initiated the 1992 war, whereas Misin would face a lawsuit for comments he made in a television interview that Rosca and other protesters were paid millions of dollars for their actions. Meanwhile, Rolf Ekeus, the high commissioner for national minorities of the OSCE, made a statement calling for constructive dialogue

between the opposed forces in Moldova, and emphasizing that the importance of studying the official state language by all Moldovan citizens must not minimize the use of minority languages.

**17 April 2002:** Walter Schwimmer, CoE Secretary-General, met in Strasbourg with the three Moldovan Parliamentary group leaders in order to end the political crisis through political dialogue. PPCD Chairman Yurie Rosca presented, during this meeting, a proposal consisted of 12 measures, including new parliamentary elections, the cessation of amendments to the constitution, and President Voronin's resignation as chairman of the Party of Moldovan Communists. Despite the optimistic release issued by Secretary-General, stating, among other things, that the three leaders reached a consensus on Moldova's future in Europe, leader of the PMC parliamentary group Victor Stepaniuc refused to sign a CoE proposal (containing most of PPCD points). Meanwhile, public opinion poll conducted by the Bucharest-based IMAS institute has shown the sharply increased popularity of the PMC: 73 % of respondents would vote for them if the elections were held, whereas the opposition would receive only 6 % of votes. This poll also showed that 55 % of respondents believed that Communist government performed better than the previous one, while only 30 % adhere to the opposite.

**19 April 2002:** confronting sides in Chisinau failed to reach a compromise on a document aimed at diffusing existing tensions. The Parliamentary Assembly of the CoE decided to discuss the situation in Moldova at the PACE session on 24 April. This decision resulted from a report submitted to PACE by Moldova rapporteurs Josette Durrieu and Lauri Vahre. Meanwhile, the European Court on Human Rights agreed to examine urgently the PPCD's complaint against the Moldovan government.

**24 April 2002:** the PACE adopted a resolution expressing concern over the "continuous deterioration" of the political situation in Moldova. It recommended Moldovan authorities to register the Bessarabian Metropolitan Church by 31 July, to submit for examination by CoE experts the new Criminal Code and the Administrative Code, and to grant Teleradio Moldova the status of a public organization. The PACE called on the authorities to ensure the independence of the judiciary, and to impose moratorium on actions relating to studying history and compulsory foreign-language education in schools. The assembly also called on protesters in Chisinau to stop demonstrations, whereas authorities, on their side, should stop persecutions and intimidation of the PPCD deputies. The leaders of the three Moldovan parliamentary groups who attended the session all praised the resolution and recommendations, and promised to implement it. Meanwhile, the strikers' committee at Teleradio Moldova said that in the very day of the adoption of the PACE resolution, the management intensified censorship, and forbade the broadcasting of the reports in both Moldovan and Russian on the forthcoming PACE resolution. The committee said that Moldova's population is subjected to an "information blockade".

**29 April 2002:** the PPCD announced that it has ended the protests against the government, in compliance with the PACE resolution and recommendations, and that it expected the government to fulfill its promises to implement those recommendations as well.

**30 April 2002:** the Chisinau municipal tribunal rejected the appeal of three PPCD leaders a verdict of a lower court that fined them for organizing unauthorized demonstrations. The lawyer representing the three leaders said that this decision showed that the Communist authorities did not honor their pledge to respect the PACE recommendations, and that “dialogue with the Communist leadership is impossible”.

**3 May 2002:** the same conclusion has been reached by the general Conference of the Union of Moldovan Journalists, that issued a resolution stating that freedom of media is not observed in Moldova, and that the state-owned media “has dangerously slid” into promoting hatred and ethnic segregation, and indulges in “gratuitous slandering, provocation, and instigation” contravening the Code of Professional Ethics.

Subsequent events relating to the developments in both domestic and foreign policy in Moldova have shown that though formally, the acute phase of a political crisis, characterised by non-stop demonstrations and protest actions, has been overcome, the existing tensions and their deeply rooted causes remain practically intact. Continued persecutions of the participants of the protest actions, uncertainty with the registration of the Bessarabian Church, not a sign of progress in changing the status of the Teleradio Moldova, and many other indicators confirm the PPCD chairman opinion that the authorities ignore the PACE recommendations.<sup>107</sup> The main good news of the following period was the re-appearance of Vlad Cubreacov who was found alive on 25 May near the border with Transdnier.<sup>108</sup> And though the enigma of his abduction has not been solved, and even used for further provocative speculations aimed at compromising CCPD and other oppositional bodies,<sup>109</sup> this very fact cannot but be praised by those people in Ukraine who are well aware of similar “disappearances” with much more tragic outcome.

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<sup>107</sup> RFE/RL Newline, v. 6 # 100, 30 May 2002.

<sup>108</sup> RFE/RL Newline, v. 6 # 98, 28 May 2002.

<sup>109</sup> RFE/RL Newline, v. 6 # 102, 3 June 2002. +-



## **National Control System of transactions with strategic goods in the Republic of Moldova**

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According to legal framework in this field, that we will discuss in detail in next chapters, the notion of “ strategic goods “ includes:

- a) goods, technologies and services of dual – use ( civil and military );
- b) arms, munitions, military equipment, afferent technologies and services;
- c) goods, technologies and services used in production and utilization of weapons: nuclear, chemical or biological and of missiles able to deliver all types of weapons;
- d) other goods, technologies and services that need a special control in the interest of national security or of foreign policy according to the agreements and international arrangements signed by RM.

From the definition of strategic goods is clear the risk that presents the proliferation of this type of products and the necessity in export control of this type of goods.

“Export control” can be defined as a summary of laws that regulate the export of pieces and technologies that can be used by other countries to produce Mass Destruction Weapons ( MDW ) and laws that regulate the transfer of simple arms.

Export control, physical defense, evidence and control are considered to be the basic elements in the prevention of MDW proliferation.

The main problems in the field of control of dual – use goods or technologies are in the export control of these technologies that can be used both for civil and military reasons. For example, computers with high rate of processing speed can be used to make scientific research in scientific departments, at the same time they could be used for creating and developing nuclear programmes. In this case licencing officers make an estimation where, in case of export, could be used these technologies – in military programmes or for civil purpose. At the same time, the globalization of economic relationships, inclusively development of telecommunications and transport systems stated the problem of MDW proliferation at the World level. This problem becomes more important because of regional and local conflicts in so-called non-controlled territories.

Every country that wants to be recognised as a reliable partner in establishment of regional and international security creates its own efficient system for strategic goods control.

International collaboration in this field continues for a long period of time, starting in ex-soviet epoque. Even in the time of “ cold war “ with many different positions between USA and USSR, both countries shared the idea of prevention the MDW proliferation, because they realized a possible major danger for the whole World.

Consolidation of necessity for collaboration in the field of export control appeared when USA found out about the existing nuclear programme in India and USSR – about nuclear programme in China.

At the same time, an actual concept about “ a new war “ exists, especially after tragic events that took place in USA on September 11, and convinced all people that the terrorism presents a major danger not only for some states, but also for all nations, a real threat for peace and security.

At present there are officially 5 countries that have nuclear weapons – Russia, USA, China, France and Great Britain. Also, there are nuclear weapons in India and Pakistan. In the opinion of all countries Israel has nuclear weapons, too. The majority of foreign specialists consider that Iran, Irak, Libia and Northen Korea also have interest in obtaining nuclear weapons and are already developing military programmes. At the same time, there are a lot of states which in the past were developing arming programmes and now they will be interested in obtaining nuclear weapons and afferent components.

As regards the Republic of Moldova, which is not a nuclear country, but more than that, adopted the statute of permanent neutrality it seems that respective problems must not affect it. In some cases, described lower down, can produce opposite conclusions.

### ***Cuanta case***

Scientific research institute “Cuanta” ss. was part of the military-industrial complex of the ex-USSR and was working by the side of “Signal” plant (at present “Semnal”ss.).

The main directions of activity of the Institute:

- establishment and production of communications means;
- establishment and production of technology for information processing through satellite link channels;
- establishment of telemetering and data translation systems;
- establishment of unmanned delivery systems.

The nominalised enterprise during 1996-1997 signed two contracts with Iran regarding production of equipment for telecommunications to be used in civil purposes.

When the time for loading and delivery of equipment came , in accordance with the contracts, the delivery was stoped and from the State Department of the USA was sent a note to the Government of the Republic of Moldova in which was expressed the concern and dissatisfaction regarding collaboration of “Cuanta” ss. with firms from Iran which were working on the developing programme of ballistic missiles and its behaviour was a motive of concern for World Community.

As the American Part mentioned, if we will not stop such cooperation it can have a negative impact on the image of our country at the world level, and in final instance can lead to the application of sanctions from the State Department of the USA with ceasing technical assistance . The decision will depend by the involvement of the Government of the Republic of Moldova in this problem.

Despite of all negotiations carried on with American Part on that matter and was ceased the activity of the enterprise with Iran, as result, the “Cuanta”ss was still dissolved. The main cause of this consequences-control system was imperfect and were committed many gaps in these transactions, inclusively non-verifying the end-users of this items.

### **Production of munitions in the Transnistrian region**

Recently, on the february 4, 2002 in mass-media, that is to say in “Panorama” magazin was published an article “In Usama’s supermarket” in which the author ( Mrs.Elizabetta Burda) makes characteristics of that region and of its possibility of production.

From the author’s words, in accordance with the opinion of the Intelligency agencies from abroad, special here are concentrated arming and training centres of persons from “al-Qaeda”. There the munitions are produced even in the glass plants.Despite of the fact that this enterprises look very peaceful , according to the people that worked there , every day are leaving vins from the plants with hand grenade throwers “Gnom”, trench mortar “Vasilek”, sets of launching air – crafts missiles “Duga”, guns “Makarov”, automatic guns “Policeman” very popular for terrorists and many others. The end-users of this staff are terroristic groups as “al-Qaeda”, “Hamass”, “Hazbollah” and such countries and regions as Iran, Irak, Cecenia, Palestine , Karabah.

All this transantions are performed through the “Seriff” company - the only company that has a licence for the foreign economical activity . In accordance with esstimation of the Intelligency agencies the affair number per year of this company is 4 mld dollars USA(by 47 times bigger than the official IGP of the Transnistrian region).

### **Transit through the Republic of Moldova and intermediating**

The transit represents an important part of the foreign economical activity of the Republic of Moldova. The analyse of the strategic goods transit is a very recent problem and one of the main measures for the achievement must be the improvement of custom procedures in the pass points of the state border. As an example of the importance of scrupulously control is the case when in 1999 on the Chisinau airport from technical reasons landed an airplane from Ukraine. The police found, on the board of the airplane, 5 thousand units of non – declared munitions destined to be transported in ex – Iugoslavia. Another case that can be mentioned was the intention of transit transportation of nuclear trash from the nuclear power plant Kozlodui in Bolgaria which till now has no success, despite the fact that participation of Moldova in this transaction would have brought considerable financial sources in the state budget.

An acute problem is the intermediating strategic goods transactions. The countries which wish to obtain strategic goods inclusively nuclear compounds are using services of intermediars, brokers and agents from the third countries. In this case an important role is in cooperation with field agencies with the view of discovering these attempts.

To summarize those from above, we would like to mention the considerations that impose the necessity of development and implementation of NCS in the Republic of Moldova. These considerations can be devided in two categories: internal and external.

The domestic (internal) considerations include:

- National security concerns;
- Economic policy concerns;
- Informational deficiency regarding strategic goods that were imported in the country (an alarming sign may be considered the case that took place on September 2000 when Organization for Prohibition the Proliferation of Chemical Weapons asked for explanations for 20 Kg of Arsenic trichloride nondeclared by Moldova as being imported, but at the same time Ukraine declared this substance as being exported to the Republic of Moldova);
- An effective control of exports and affiliation to the international regimes of nonproliferation and of export control allow an almost unlimited access to materials, equipment, software, technologies that are necessary for the reorganization process of the national industry.

The international (external) considerations include:

- Consolidation of the favorable image of the Republic of Moldova as reliable partner in the problem of prevention the MDW proliferation;
- Respecting basic principles of the foreign policy of the Republic of Moldova;
- Respecting international arrangements for prevention the MDW proliferation and of other strategic goods used for military purposes;
- Respecting international agreements signed by the Republic of Moldova;
- Participation to the international efforts regarding export control of strategic goods;
- The existence of developed strategic goods export control regime and of national authority capable of administration in this field represents one of the conditions for the admittance of our country to the European Union and its structures.

From all mentioned considerations we would like to discuss in detail about the characteristics of international arrangements and agreements to which Republic of Moldova adhered and imposed the obligation of creation of a national control system.

Untill now the Republic of Moldova signed the following international treaties that have prerogative to the problem of nonproliferation and impose the necessity of creation of a National Control System in the Republic of Moldova ( selective ):

1. **Treaty of conventional army in Europe** (established in Paris on November 19, 1990, came into force in the Republic of Moldova on July 16, 1992) and **Convention regarding maximal levels for conventional arms and quantity of technics in conection with Treaty of conventional army in Europe** (established on November 3, 1992 in Budapest, came into force in the Republic of Moldova on July 16, 1992).

The main obligations of participant countries to these two Treaties are:

- Participant states to forbear from threat with or without use of power against territorial integrity or political independence of any state or in another way incompatible with goals and principles of the United Nations Charter.
- Achievement of a stable and secure balance of conventional army in Europe at the lowest levels.
- Elimination of the launching capacity of an atac by surprise and initiation of a vast proportion offensive action in Europe.
- Diminution untill certain level (determined by treates) of the total quantity of munitions and conventional equipments.

- Carrying on conventional arms control process with the view of stability and security insurance in Europe.
2. **Treaty of nonproliferation of nuclear weapons** (established in Washington, London and Moscow on July 1, 1968, came into force in the Republic of Moldova on November 10, 1994).

The main obligations of participant countries to the Treaty are:

- Prevention of nuclear weapons proliferation;
  - Facility of warranties application of the International Agency of Nuclear Power for peaceful nuclear activities;
  - Direct and indirect control of nuclear weapons and exploding devices proliferation;
  - Deny the help in obtaining and manufacturing nuclear weapons and exploding devices.
3. **Convention of prohibition the development, establishment, stock and use of chemical weapons and their annihilation** ( adopted in Paris on January 13, 1993, came into force in the Republic of Moldova on April 29, 1997).

The main obligations of participant countries to the Convention are:

- Total exclusion of the possibility of chemical weapons use;
  - Total prohibition of development, establishment , stock and use of chemical weapons as well as direct or indirect transfer of these to other states;
  - Ceasing all military preparations for chemical weapons use;
  - Destruction of all chemical weapons that possess the participant states to the Convention;
  - Use of chemical substances that are on the lists of the Convention only for scientific and medical reasons.
4. **Convention of marking plastic explosives for their detection** ( signed in Montreal on March 1, 1991, came into force in the Republic of Moldova on June 21, 1998).
5. **Convention of prohibition the use, stock, produce and transfer of anti-personal mines and their destruction** ( established in Oslo on September 18, 1997, came into force in the Republic of Moldova on March 1, 2001).
6. **Convention of prohibition and use restriction of some classic arms that can be considered as productions of excessive trauma effects or hitting with no differentiation** ( established in Geneva on October 10, 1980, came into force in the Republic of Moldova on March 8, 2001).

Until now strategic goods control process was regulated by Government's Decision Nr.283-1 "With regard to mode of licencing import and export of items and dual-use goods with special destination that needs special intellectual efforts, special load traffic and production of items with military destination through the territory of the Republic of Moldova" from May 10, 1995. This decision has a temporary character and do not correspond to the international practice in this field. The approved Nomenclature by this decision is a general one ( has 3 pages) and is referring, especially, to the munitions, arms and transport devices therefore.

As a result of evolutions on the international level and taking into considerations the necessity in putting up-to-date the control mechanism as well as list of items that are under control, the Ministry of Economics, together with other ministries and competent departments, established the Law with regard to export, reexport, import and transit of strategic goods control( Nr. 163-XIV from July 26, 2000, came into force on october 27, 2000).

In total this Law contains 5 chapters and 16 articles by which are determined necessary competencies to make an all-inclusive control. Concomitant in the Law are defined the basic notions used in the text, field of law's application, principles in accordance with which is performing the export, reexport, import and transit of strategic goods control, as well as other main moments.

At the same time in this Law are stipulated strategic goods categories that are under control.

The competence of Parliament and of Government of the Republic of Moldova is well defined, as well as of law's subjects.

In accordance with this Law the Government is charged to determine a unique regime of licencing export, reexport, import and transit of strategic goods and to coordinate the interactions of central public authorities in the field of control.

By adopting this Law in the Republic of Moldova was set the creation base of stable and efficient national control system that gives us the possibility to apply a unique treatment to all economical agents in the process of licencing the export, reexport, import and transit of strategic goods. At the same time the Law gives us the possibility to bring up to life a viable cooperation mechanism of governmental structures involved in the process of regulation and control.

At the same time, was established and constituted an unique mechanism of working out the state policy in the field of strategic goods control, as well as implementation mechanism of this policies, being created counteract conditions of arms illicit trading, stop conditions of non-approved transfer of information and technologies.

An important compound of the national export and import of strategic goods control system is Interdepartmental Committee of export, reexport, import and transit of strategic goods control constituted by Government's Decision Nr. 1039 from October 3, 2001, which is the permanent body of the Government of the Republic of Moldova that supervises the control activity in this field. Interdepartmental Committee examines and takes decisions regarding the remittance of licences for export, reexport, import or of transit licence for all strategic goods, other documents for control regime. At the same time accomplishes the control of respecting Commitments and international Agreements regarding nonproliferation of mass destruction

weapons and of other strategic goods used for military purposes. Also analyses and evaluates all aspects relating to strategic goods trading.

For the implementation of the mentioned above Law, were worked out and approved by the Government on April 3, 2002 the normative acts:

1. **Interdepartmental Committee Regulations of export , reexport, import and transit of strategic goods control** which establish the functions and activity procedures of the Committee as well the way of taking decisions.
2. **Regulations with regard to export , reexport, import and transit of strategic goods control regime** that establish the rules and principles of application, remittance, prolongation and annulment of documents connected with export, reexport, import and transit of strategic goods, examination and releasing terms of licences and certificates, the obligation of the licence applicants, as well the way of interaction of central public organs involved in control activity of strategic goods transactions.
3. **Nomenclature of strategic goods that are under control**, as base being the European Union Control List, that was assumed as a basis by all European Union Countries, USA, Japan, Australia, Poland, Czech Republic and Baltic Countries. The rest of countries are in the process of implementation of the mentioned list.

Nomenclature includes the main control regimes applied in our days according to the international agreements:

**Wassenaar Arrangement** controls the export of conventional Arms and Dual-use Goods and Technologies;

**Australia Group** by which is established a firmly regime to prevent the proliferation of chemical and biological weapons and has a system of multilateral export control;

**Nuclear Suppliers Group** controls the export of materials, equipment, nuclear weapons and their nonproliferation;

**Missile Technology Control Regime** supervises the nonproliferation of equipment, materials, technologies that can contribute to the development, establishment or stocking of missiles capable of delivering mass destruction weapons and their guidance systems.

In accordance with NCS the principles of performing strategic goods export control are:

- respecting basic directions of foreign policy of the Republic of Moldova;
- respecting interests of national security;
- respecting international commitments regarding nonproliferation of mass destruction weapons and of other strategic goods used in military purposes;
- control of the end-use of strategic goods that are under control within the framework of nonproliferation regime;
- free access to normative acts that regulate export, reexport, import and transit of strategic goods control;
- participation to the international efforts regarding strategic goods export control;
- keeping confidentiality of secret information.

For the implementation NCS exists two aspects less known by the countries that are in the process of national control system implementation and namely the “ catch – all “ procedure and the necessity of establishment the cooperation relationships between Government and Industry that are widely used in countries with rich experience in the field of control.

## **“Catch – all” procedure**

To the establishment of afferent lists to nonproliferation and export control international regimes, the experts take into consideration, in the main, inclusion of all materials, equipment, installations, software, technologies that can contribute to proliferation of weapons of mass destruction and of missiles capable of delivering all types of weapons of mass destruction.

However, it is possible that some articles, technologies or services will not be covered in national lists, that can coincide with those international or can be more comprehensive, taking into consideration the national interest. For this reason was constituted “catch – all” procedure.

To apply this procedure within the framework of export control regime, national legislation put under control and export of other items that are not on the list, covering strategic items determined by Government’s decisions, under conditions that exporter is informed by competent authorities, in accordance with the law, that respective items are or can be meant to, in total or in part, or can contribute to:

- a) development, production, handling, functioning, maintenance, detection, stocking, identification or dissemination of weapons: nuclear, chemical or biological;
- b) development, production and stocking missiles capable of delivering all types of weapons of mass destruction;
- c) development, production, marketing, stocking and utilization of munitions, arms and of other military items.

If the exporter knows that some items, in total or in part, are meant to one of purposes mentioned above, he is obliged to inform the competent authorities who decide to licence or not the respective export.

## **Relationships Government – Industry**

Activity experience in the field of control allowed to come to the conclusion regarding necessity in direct interactions with industry, bringing into life system of relations based on trust given to the involved organs in export control. The goal of the governmental bodies is to persuade the enterprisers that the purpose of export control is not in introduction of additional and unfounded restrictions, sustained by actual legislation, but represents an activity that serves to the insurance of their goals, too.

At present, in continue, takes place the development and improvement process of national control system, takes place the reorganization of control bodies, inclusively of those from neighbour states where economic agents have business relations, appear new normative acts in the field of export control. The necessity to inform in time the industry about modifications in the rules of international transfers under this conditions become a more present problem.

Often to the Ministry of Economics are addressing autochthonous economic agents with solicitations in helping them to solve different problems that appear in their way of activity, because was modified the control procedure in partner’s country with whom they have business relations and new demands appear.



That's why, it is important to organize for industry round tables, workshops, conferences, supply with informative materials goal of which will be to inform economic agents about international obligations in performing export/import transactions with strategic goods, process of licencing economic agents who carry on transactions with strategic goods, examination of problems with which are confronting economic agents in the process of performing commercial operations.

The experience of foreign countries, inclusively our own experience, allow us to come to the conclusion regarding enterprises's role, which voluntarily and consciously create their own departments of export control. The enterprises that invest financial means in insurance of measures in the field of export control, in consequences are entailed by state organs to solve in common different problems, taking into consideration interests of the state for national security.

All these in cosequence, lead to the company success and allow to avoid possible financial expenditures that can appear in case of administrative sanction application when are violated legislative standards in the field of export control.

In the Republic of Moldova, in comparison with other states, (for example Russian Federation and Ukraine oblige the enterprise to create their own internal control system and represents a compulsory demand in the process of licencing commercial transactions), the establishment of the export control services within the framework of enterprises at present it is not regulated by legislation.

The national authority in the field of export, reexport, import and transit of strategic goods control responsible for application of the Government policy in this field is **Office Control of dual-use goods circulation** within the framework of the Ministry of Economics.

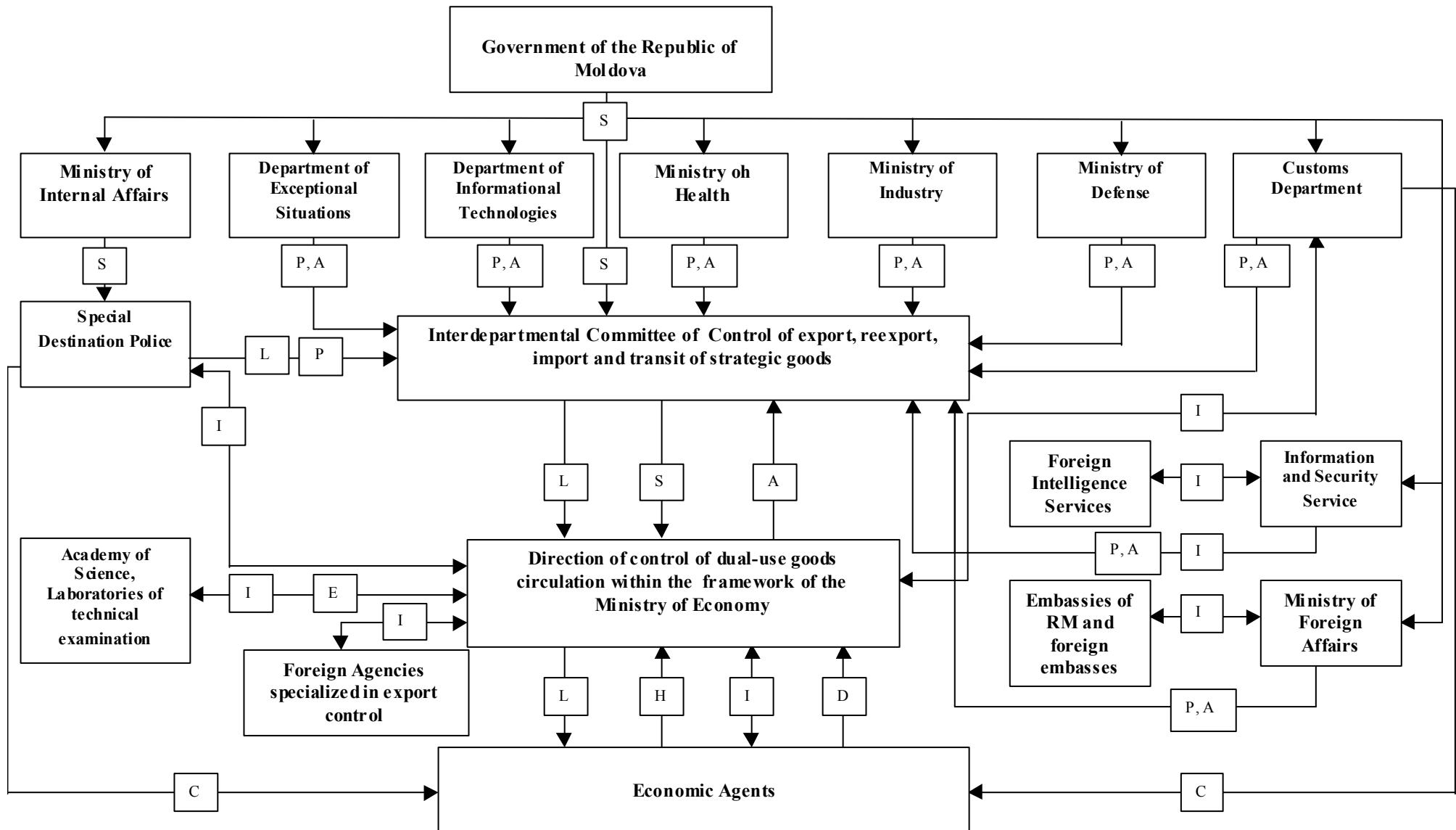
*The main functions and prerogatives of the Office (selective):*

- a) regulation: initiates normative act projects, works out regulations in common with other competent authorities, works out methodological norms, mechanism and procedures and instructions specifically for export control in concordance with international demands; initiates in common with competent institutions bringing up to date of the Nomenclature in accordance with assumed international arrangements by the Republic of Moldova.
- b) licencing: verifys, in written or factual, by case, the relevant aspects regarding settlement, performing or ending strategic goods transactions, as well as respecting their destination and end-use, involving, when it is necessary, the ministries, departments and interested organizations; evaluates and accepts, by case, international certificate of import and certificate of the end-user or equivalent documents or certificates released by competent authorities from the importer partner's country with the view of releasing export licences for strategic goods; releases international certificate of import, certificate of the end-user or equivalent document, as well as certificate of verification the deliver of imported strategic goods; examines and approves demands for licence regarding export, reexport or import of strategic goods; releases, on the base of Committee's decision, licences for export, reexport, import of strategic goods.

- c) control: verifies conformity and exactness of declarations of the persons who carry on transactions with strategic goods; disposes, in case of violation the provisions of the present Regulation with the help of competent organs; stopping or interdiction of performing operations of export, reexport, import, transit, reloading or other strategic goods transfer, as well as penalizing persons guilty of this violations.
- d) representation: represents the Republic of Moldova within the framework of activities unfolded by responsible international organisms in the field of control the export, import of strategic goods; initiates, in cooperation with competent ministries and departments of the Republic of Moldova, actions of promoting interests of the Republic of Moldova in relationships with international organisms of export, reexport, import and transit of strategic goods control.
- e) informing and consultation: organizes, with support from ministries, departments and organizations from republic and abroad, programmes of informing economic agents in connection with principles, objectives, norms and procedures regarding regime of export, reexport, import and transit of strategic goods; grants, at the demand, specialized consultation to economic agents and to other persons interesting in performing operations of export, reexport, import or other operations with strategic goods that are under control regime regulated by present legislation; cooperates with similar authorities from other states for the purpose of mutual informing and consultation in case of demand to release licence for export, reexport, import and transit of strategic goods if solid indexes exist regarding possibility of utilization of this in other purposes than those declared; bringing up to date and uniform application of regulations on this matter, inclusively of the Nomenclature; notification of violation of the control regime with the view of penalizing guilty persons by competent organs from every state.

Interaction between Committee, Office and the rest of the ministries in the process of examination of the solicitation petitions of releasing licences for performing transactions with strategic goods is presented in the scheme:

## National Control System of export, reexport, import and transit of strategic goods



S – supervision, P – participation, I – informational exchange, H – handing in an application for licence, D – denuntiation, A – applications examination, L – licencing, E – expert appraisal, C – compulsion

From this scheme you see that in the process of control of strategic goods transactions are or can be involved a number of competent departments and ministries that have prerogative to the respective transactions. Some ministries are directly involved in the control process ( for example: Ministry of Foreign Affairs, Ministry of Defense, Ministry of Internal Affairs, Ministry of Industry, Information and Security Service, Department of Customs ) and others – depending of subjects that are discussing ( for example: Ministry of Health and Department of exceptional situations in case of import/export of dangerous substances, or Academy of Science when are necessary specific laboratoric examinations ).

By examining the scheme of interactions of ministries and departments and their functions in the control process, you can observe two important touches. In the first place exists a mechanism of involving different ministries and departments in the process of control, in the examination process of applications of licence's solicitation for carrying on transactions with strategic goods. In the second place it is necessary an intensive informational exchange between ministries and departments, inclusively with similar agencies from abroad.

The main problem in export control is that countries and persons that wishes to buy strategic goods for the purpose of arming programmes can use services of economic agents from a third country helping them to buy the necessary items and services. In this context, the leading part in crossing this is in a more close cooperation with specialized agencies from different states. For touching the proposed goals is strictly necessary an operative exchange of information for determining the end-users of the respective items companies suspected in illicit trading with strategic goods, the violators, the character of items that will be trans ported.

The respective information has a confidential character, that's why for obtaining it, it is necessary to sign agreements that foresee the operative exchange of information and mutual help in the control process at a bilateral or multilateral level between specialized agencies in this field, at least, at first stage, with neighbour countries, inclusively with countries that have a developed control system. An example will be the “ Agreement of cooperation in the field of crossing the proliferation of mass destruction weapons and promotion of military and defense relationships” signed by Government of Romania with Government of the USA.

Now, the Republic of Moldova has no such signed agreements with any states (except some general agreements that foresee inclusively exchange of information between branch ministries, for example between the Ministry of Internal Affairs, Department of Customs and others, and their homologous from abroad). These agreements, by our opinion, have a general character and are not working really.

Other possibility to ensure an efficient informational exchange with other states is in adhering to international agreements of nonproliferation (the Wassenaar Arrangement, Nuclear Suppliers Group, Zaggar Committee, Australia Group, Missile Technology Control Regime) that foresee, compulsory, informational exchange between member-

states, performing bilateral consultations. At present, the Republic of Moldova is taking part to non-of these arrangements.

In addition, the Government of the USA grants assistance in implementation of TRACKER systems, those foresee the establishment of a national informational system and connection to the informational systems of the neighbour countries and from region. In the future, the respective possibility will be examined, at the same time, by our opinion, for obtaining necessary information from abroad, utilization of the respective system is necessary to implement and use this system by all countries.

At the end, to create an imagination of how the National strategic goods Control System functions, we would like to make characteristics of the **examination mechanism of applications for licence releasing to carry on transactions with strategic goods.**

The economic agent who wishes to import, export or to transport in transit a strategic good addresses to the Ministry of Economics by handing in an application for obtaining licence and annexing to the application a number of documents:

- a) copy of the document that certifies the registration of the applicant as an economic agent;
- b) copy of the licence ( if the field of activity involves licencing );
- c) documents that certify the origin of items;
- d) documents regarding qualitative and technical characteristics of items, and by choice, the code of respective items in accordance with Nomenclature;
- e) contract and its copy signed with foreign company that imports or exports strategic goods;
- f) copy of licence, attested in stated way, that certifies the permission for foreign company to carry on operations of export-import with strategic goods, released by authorized organ of the country where the company is registered;
- g) certificate of the end-user ( at the Office demand );
- h) international certificate of import ( at the Office demand ).

The Office after receiving application and mentioned documents, is consulting with other ministries and departments involved in control procedure with the view of verifying presented documents.

After previous examination of application, the documents and the conclusions with reference to transaction are presented to the Committee. In case when different opinions appear with reference to transaction the decision for releasing licence is taken by the majority of member's votes. In case when members of the Committee cannot take a decision with reference to this problem, the decision is taken by the deputy-minister, Parliament or by the President of the State.

The causes of not releasing licences can be the next:

- possibility of use of exported strategic goods for production of nuclear weapons or exist doubts that importer-country wishes to obtain weapons of mass destruction ( because of these reasons the USA do not deliver technologies to Iran );
- to the importer-country are imposed sanctions or embargo by international organizations;
- economic agents involved in the respective transaction are doubtful;
- false documents were presented;
- to ensure from the national security of the state;
- were hidden some facts from the respective transaction;
- economic agents committed breaking of laws in the past, possible they have contacted terrorist groups.

The maximal procedure of examination of application is 60 days in dependence with the difficulty of taking every case in part.

A major role in establishment of the National Control System, performing a strict control of strategic goods transactions, crossing contraband, nonsactioned traffic, interruption of the illicit passing over the customs with strategic goods and crossing international terrorism is claimed by customs services, especially customs bodies. At the same time, customs bodies are authorized to carry on operative activities of investigations, criminal inquiry and preliminary investigation for the purpose of discovering cases and persons who committed custom contraventions, contraband infringements or other type of violations.

In accordance with Regulations regarding regime of export, reexport, import and transit of strategic goods control, the transport of strategic goods through the custom territory of the Republic of Moldova is accomplished on the base of licences released by the Direction of Control of dual – use goods circulation within the framework of the Ministry of Economics on the base of Interdepartmental Committee's decision of control on export, reexport, import and transit of strategic goods at the meetings of which participates and the representative of the Department of Customs leading as a member of this Committee.

For the import, as well as for the export of strategic goods economic agents or those who are carrying on such transactions are obliged to present to the custom's authorities the originals of export or import licences and their copies. The custom official notes on the original of the licence as well as on its copy the real quantity of imported or exported items and the date of import or export and the number of declared items confirmed by his signature and paraph.

If strategic goods are imported or exported in many lots on the base of a single licence, the custom official verifys the total amount of goods in order not to exceed those specified in the licence. The originals of licences are returned, but their copies are kept by custom authorities as an annexe to first original copy of items declaration.

In case when the transit is accomplished through the territory of the Republic of Moldova the declarant presents to custom authorities the licence for strategic goods transit and declaration of transit custom procedure. Transit licence is used only once and is annexed to the original copy of transit declaration that is enclosed to stock.

When strategic goods are allowed to enter on the custom territory, the custom official registers the transit licence, but when goods are leaving the territory of customs, the licence is annulled and all this are confirmed by signature and paraph applied by custom authorities from the exit point on the territory of the Republic of Moldova.

In transit licences are also indicated custom posts through which the entrance/exit will be taken, route and time of performing transit.

In case when economic agent does not dispose of respective licences, the custom authorities stop the import or export of strategic goods till obtaining, by agent, necessary documents for carrying on transactions. For the purpose of verifying correctness and complete statement of imported items, custom bodies will perform inspections at the economic agents – importers of such items.

Despite the fact that custom bodies have enough power for performing control at the borders of state, they are confronting with different problems on the way of their activity.

An acute problem for the Republic of Moldova is nonsolving transnistrian dispute, that leads to the impossibility of performing control of items tide on the whole perimeter of customs of the Republic of Moldova.

For solving somehow this problem the Department for Custom Control restrains at the borders the items addressed to economic agents from transnistrian region, suspends the releasing licences and respective authorizations to economic agents from this region and at September 1, 2001 withdrew the custom paraphs from custom authorities from this region.

Another problem is corruption, which considerable affects the image of custom bodies.

It leaves much to be desired the professional training of some custom officials.

At the same time, for finding out contraband cases, effectuation of nonsanctioned transactions with sensitive strategic goods ( for example: chemical substances, toxins, radioactive materials ) the custom services do not dispose of necessary equipment for all pass points, as well as of specialized laboratories.

## Conclusions

There are 3 main aspects of the problem of strategic goods export control: socio – political, legal and technical.

To perform control is very difficult because appear problems: what to control, how to control and how to find the balance between necessity of transparence of the democratic society and national security.

It is very hard to find technical solutions in export control, especially to find out cases of violations, because respecting rules of export control depends, in a large measure, on the exporter himself.

The problem of export control is not an internal problem, but an international one. That's why it can't be solved at the national level.

Legislation in this field must be, if not a unique one, for all the countries, at least similar. If in different states would have existed various regulations of export control, the buyers, of course, prefer to buy items and technologies from where exists a more weaker control and it is possible, in a quicker way, to obtain them and have less chances to be sanctioned in case of violation.

As long as companies will consider that licence of strategic goods export is a “ paper “ in addition and an obstacle in free trade, is less probable that export control will be efficient.

Establishment and implementation in the Republic of Moldova of the National Control System is a new process. At the moment was created, in general, the legislative data basis necessary for performing control of strategic goods and now, is required to proceed from the theoretical part to that practical and, of course, exist a lot of obstacles in implementation and establishment of this system of legislative, financial, technical and social orders.

*In legislative field* is requiring to elaborate strict amendments to the criminal code and to the code with regard to administrative contraventions that look upon legislative violations in the respective field.

*In technical field* is feeling acute absence of educated staff to activate in this field. For working with nomenclature persons from the involved ministries, especially those from the custom services, must be acquainted with procedure of determination of items, goods, technologies that must be under licencing procedure, in accordance with categories from the Nomenclature. At the moment, persons who can work with such lists are inadequated.



*In financial field* is feeling acute absence of financial means for training and pay the field specialists, obtaining equipment, technics and informational technologies, automatization of control process, shifting for performing before- and after – licencing control, performing laboratoric examinations.

*In informational field* is feeling the absence of internal as well as of external information relating to economic agents involved in transactions, final utilization of strategic goods, of other legislation of the state. Is requiring a closer cooperation between ministries and departments involved in control process in Moldova, as well as with specialized foreign agencies. It is necessary to create an informational system which will ensure informational exchange between national agencies, as well as with similar foreign agencies, especially from neighbour countries. For informing economic agents about changes that take place in the control process, is requiring publication of informative bulletins, booklets, organization of round tables, workshops and of others. An important moment is creation of an official web – page. But to fulfil such important measures we are conflicting with financial problem again.

*In social field* every economic agent and citizen must get into the essence of the problem of export control which is, in essence, an overall problem, fact that was demonstrated especially after the attempt from September 11, 2001.

## **The Influence of Regional factors on Possible scenarios of Development of Moldova-Transnistria-Ukraine relations**

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The stability and safety of southeastern region of Europe are determined primarily by the character and level of mutual relation between the countries of this region. The most explosive zone destabilizing the international situation in this region of Europe is Transdnistria.

Transdnistrian Moldavian Republic emerged as a result of the Transdnistrian conflict, de facto, having turned into a quasi-state located between Moldova and Ukraine. And despite the fact that none of the international subjects recognizes its state sovereignty and independence, the fact of existence and viability of Transdnistria is beyond question. This reality should be taken into account in the analysis and forecasting of development of the Ukrainian-Moldovan relations.

The importance of research of these relations is determined, first of all, by the fact that they reflect, as a mirror, the problems and tendencies, characteristic both for the post Soviet space and for the new Europe whose shape is formed under the influence of the EU and the NATO expansion to the East.

The future of these relations can be reduced to several prognosis scenarios. Each scenario differs from others in the character and level of the relationship, developing in the Moldova-Transdnistria-Ukraine triangle.

The quintessence of relationships in any of these scenarios of development of events is the situation at borders between subjects of these relationships. The analysis of the situation at the borders is not only a test for the definition of the character and level of relations, but also the desirable result which we should aspire to achieve for the safety of all southeastern region of Europe.

The interstate relations are formed and develop under the influence of many *factors*. The factors are the driving force of any social processes, including the processes developing within the system of the international relations. In this context, the prognosis scenarios are being built primarily with the consideration and through the research of the key factors forming the given scheme of relationships.

According to the force, scale and character of influence on the development of international relations, the factors are subdivided into several kinds and types.

If to look at the development of relationships within Moldova-Transdnistria-Ukraine triangle through the prism of *the factorial analysis*, then it is possible to outline the factors that render global influence on the entire system of international relations not only on the European continent, but also all over the world, and also the factors from the regional

level. Under the influence of these factors, two main contradictory processes – the globalization and regionalization processes - develop.

Moreover, if the globalization factors have a mediated influence on the process of development of the Moldovan-Ukrainian relations, the regional factors have a direct influence on this process. Therefore, they represent a priority in the development of short-term and medium-term prognosis scenarios of development of these tripartite relations

**The regional factors** are in their turn divided in **external and internal**. The key role among them is played by the internal factors. The relationships, as known, are being built starting from the nature of their subjects. The internal factors in this case represent an expression and demonstration of this nature. Such dependence serves as an extra confirmation of a known axiom that the foreign policy of the state is nothing but the continuation of its internal policy.

Such ranking of regional factors represents a necessary procedure in the elaboration of prognosis scenarios; however, it would be incomplete without taking into account the factors forming the character of relationships between their subjects. In addition, the character of relations, as known, is determined by the interests of subjects. The entire spectrum of interests of subjects is reduced to two most essential ones – the needs for possession of authority and material resources.

Hence, determining among internal factors are political and economic ones. We will analyze the way these internal factors influence the development of the situation within the system of tripartite relations examined by us.

**Political factors.** The main political factor in the system of these relations represents the type of political regime in Moldova, Ukraine and Transdnistria.

The political regime in Moldova, Ukraine and Transdnistria was formed in conditions of disintegration of the Soviet totalitarian system. The loss of CPSU's managing role became the reason for a cardinal restructuring of political power in the post-Soviet space. The restructuring of power lead to the delimitation of the carriers of this power of the communist nomenklatura in pragmatic and conservative.

The "Pragmatic" nomenklatura emerged during the Gorbachev perestroika. It was inclined to compromises, understanding of new realities, openness to the West, market economy and recognition of democratic values. Ideologically it has departed from the traditional communistic dogmas. It was close to the ideas of social democracy. The domination of pragmatic nomenklatura in republics, that nowadays are new independent states, provided a certain union with national oriented elite groups and their separate representatives.

Hence, the ideology of the ruling pragmatic nomenklatura in the former Soviet republics became a mix of communist ideology and social democratic values, engaged with national attributes.

The conservative part of the Soviet nomenklatura was caused by the old Soviet totalitarian system, therefore it does not see its the future without an authoritarian political regime. It is not capable of compromises, adheres to old communist ideology, old values and old representations about the world. Its interests are connected to the existence of a totalitarian or authoritarian system. Its ally may be only “ultra” which is also inclined to authoritative forms of political power.

If now we look at the process of formation of a political regime in Moldova, Transdnistria and Ukraine, by these three political powers, we will get the following picture.

The specificity of emergence of political regime in Moldova during the consolidation of its sovereignty is the fast process of ethno-politicization of the Moldavian society and imperious party-nomenklatura. Moreover, this process developed not under own Moldovan, national slogans, but in an atmosphere of Romanianization of the Moldovan society.

Probably, the republican nomenklatura examined the rapprochement with Romania as the closest way for the exit of Moldova from the structure of the USSR, but such a fast process of Romanianization of the Moldovan society has resulted in the fact that in spring 1990, as a result of democratic elections it completely lost the authority in the republic. To power came the representatives of the Popular Front that included both national democrats, and ultra-nationalists. The government of Republic Moldova was headed by M. Druc sympathizing nationalist moods. In these conditions, the Transdnistrian nomenklatura lost any chance to be represented both in the republican structures, and in the Moldovan society as a whole. Besides, the accepted by the supreme legislative body of the country, Declaration of state sovereignty of Moldova, tore it off from the Union Centre, without whose support the Transdnistrian nomenklatura risked to lose completely the authority not only on Moldova, but also in its own region. The radical position of representatives of the Popular Front led to the emergence *of a military conflict* with Transdnistria and loss of political authority in own republic.

The national-democratic and ultra nationalist forces from Moldova were consecutively replaced by the pragmatic nomenklatura, in person of the President of Moldova P. Luchinchi - former large party official. The behavior of the new imperious nomenklatura of Moldova in relation with Transdnistria was based on a whole system of compromises providing expansion of subjects in the negotiation process regarding the settlement of the Transdnistrian conflict.

The pragmatic nomenklatura, which came to power in Moldova as a result of democratic elections, has decisively given up on the national factor and orientations towards Romania, however, it did not share the old authoritative Soviet stereotypes, dominating in Transdnistria.

This ruling part of the Moldovan nomenklatura oriented towards the creation of bases of a democratic regime in Moldova, but for that, it used the state institutions for the accomplishment of their clan interests. Such a regime of political power in Moldova provided Transdnistria with a wide field for maneuvers in upholding their political and economic interests. In such situation, the chance of renewal of escalation of the conflict was excluded, but also the mighty world demanded extremely large concessions, unaccepted by both parties, for it threatened them with the loss of political power in their republics.

Thus, the stay in power of Moldova of two political forces has determined two periods of relations of Chisinau with Transdnistria. The first period was characterized by an armed confrontation, when the power in Moldova was held by representatives of national-democratic and ultra nationalist forces. The second period, which coincided with the ruling of pragmatic nomenklatura, was marked by the establishment of relations between Chisinau and Transdnistria that can be expressed in the formula *"neither war, nor peace"*.

With the election of communists to the power in Moldova in 2001, began the third period of relations between Chisinau and Tiraspol that can be called *"the cold peace"* with transition to a stage of escalation of confrontation.

In spite of the fact that the governing conservative nomenklatura of Moldova, as well as the Transdnistrian authority, externally professes common Soviet communist ideology, confrontation between them will accrue.

The matter is that the conservative party nomenklatura, having come to power in Moldova as a result of parliamentary elections, obviously, will aspire to restoration of authoritarian forms of governing in the country. This, in its turn, inclines the management of Moldova to the solution of Transdnistrian problem using force. With such a behavior, the compromise methods will be sent to background the second plan, and the pressure on Tiraspol on behalf of Chisinau will increase. On the other hand, the stability of the authoritarian regime in Transdnistria will play for the benefit of such a confrontational scenario of development of relations.

The authoritarian regime in Transdnistria was created by the conservative Soviet nomenklatura consisting basically from the management staff.

The legacy of the Soviet Union has helped the Transdnistrian nomenklatura to unite around itself the population of the region not according to the national attribute, but the "soviet" principle.

The declassed and denationalized population of Transdnistria represented a community that was to be called "soviet people" or the so-called "Russian-speaking" population. It makes up 60 % of the population from the region. Separated from ethnic native land and national language, it lived according to the traditions of representations about the external threat, equality in poverty and equity in distribution of material benefits. Therefore, it is

no wonder, that it hostilely reacted to the ethno-politicization process of the Moldovan society and perceived this process as real threat to the existence of its own way of life.

In such an uncertain and menacing situation, the Transdniestrian population managed to unite quickly around the Transdniestrian nomenklatura in the conflict with the official Chisinau. Moreover, the authorities of Moldova themselves in their actions only assisted the aggravation of the situation and amplification of the action of conflict-generating factors, one of them being **the language factor**. Having proclaimed the Moldovan language with Latin spelling, identical with Romanian, as official language, the official Chisinau actually lost the channel of communications with the Russian-speaking population of Transdniestria, which reacted to the adoption of this Law organizing political strikes, perceiving it as a threat for itself and the descendants. The prevailing Russian-speaking part of Transdniestrian population was excluded both from the cultural, and from the information environment of the Republic of Moldova. The abrupt change of conditions of the language environment has considerably strengthened hostile mood of Transdniestrian population towards official Chisinau and represented one of the reasons of emergence of the Transdniestrian conflict.

The political authority in Transdniestria is legitimate for it is elected by the population of the republic as a result of elections. The authoritarian regime established by political leaders in Transdniestria, appeared in these extreme conditions for the republic more effective for it allows a better mobilization of material and other resources for the solution of specific tasks of state consolidation. Certainly, such a regime appeared during the escalation of the armed conflict and that is why in peacetime, an appropriate external conflict-generating environment is necessary for its consolidation. The perception of an external threat, the presence of the “enemy face” is the integral attribute of any authoritarian political regime.

In Transdniestria, the authoritarian forms of government are successfully combined with the old Soviet stereotypes existing in the social consciousness of the population of the republic. The positive perception of authoritarianism by the population makes the political authority in Transdniestria internally stable, viable and durable. The durability of the authoritarian regime is determined also by the fact that it destroys any opposition towards the authoritarian political authority, and, hence, deprives a society from the alternative of choice.

The authoritarian regime in Transdniestria prefers the force-based methods for the solution of both external and internal problems. By means of force-based methods, President I. Smirnov has established a regime of personal authority over the entire territory of the republic and has taken under the full control a sector of the Ukrainian-Moldovan border adjoining with Transdniestria. The system of tripartite relations is also influenced by the political regime existing in Ukraine.

Ukraine, as well as the majority of the post-Soviet republics is characterized by the regime of transition period representing the remains of the base of the totalitarian regime with elements of emerging democracy. Such transitional type of political regime is the most acceptable one for the pragmatic nomenklatura, being in power in Ukraine and to the greatest extent responds to the nature of its economic interests.

In the foreign policy sphere, the interests of the regime correspond to the policy of Ukraine oriented to the restoration of territorial integrity of the Republic of Moldova with the maintenance of rights of broad autonomy in Transdnistria. Such an approach of Ukraine proved its devotion to the democratic values and compromise political methods of settlement of Transdnistrian conflict. Certainly, Chisinau could always count on the support of Ukraine in the solution of this problem. The political precondition for this purpose was the common nature of positions of the pragmatic nomenklatura in power, both in Ukraine, and in Moldova.

Ukraine acted in this situation as a guarantor of safety of the two conflicting parties. Such position appreciably predetermined the existence of a liberal frontier regime at the border between Ukraine and Moldova. However, the decisive role in the existence of such a liberal regime at the border was played and continues to play **the economic factor**.

The way to the market economy, in which the reformatory “pragmatic” nomenklatura planned to create the subjects of the market, private proprietors. As such proprietors, certainly, should have acted the “pragmatic” nomenklatura itself, which did not have other way to become proprietor, as well as appropriate the state property, having taken the advantage of the monopoly of the government.

In this very context, the new reformatory governments of the last regime carried out actions for the privatization of the state property, obviously for the benefit of the management body and all those who held high state positions in economy and in general in the government system.

In the republics, the mechanism of appropriation was introduced during “perestroika” times and represented a plenty of private joint-stock companies with limited liability, created within the state enterprises. Thus, behind the state enterprise was the industrial activity and the activity of private companies had a commercial character, connected to the sale of production of state enterprises. In such system, the nomenklatura received huge super-profits by means of such financial operations, which were carried out through figure firms.

For the appropriation, the imperious republican elites of the state enterprises needed political sovereignty. Such sovereignty provided the monopoly of power in the republics, and later also the monopoly of appropriation of the state enterprises from within the territory of the republics. The process of appropriation itself occurred depending on what political elites held the power in the republics.

The “pragmatic” party nomenklatura kept the privatization process of the state enterprises under its own control and the number of its real participants was limited. The legislative base and market reforms were focused exactly on the nomenklatura privatization. Such conditions of accomplishment of market reforms could not be satisfactory for the achievement of a high-grade market economy. They have resulted in the increase of “shadow” economy.

The conservative party nomenklatura, having stayed in power in some sovereign republics, was compelled to carry out market actions at very much limited local levels, in those economic spheres in which it was already impossible to keep the command methods. The process of a privatization, as such, in these republics did not occur. All the state property was under the private control of the head of the state and its narrow environment.

The first model of economic transformations is inherent to Ukraine and Moldova, the second – to Transdnistria. Moldova as predominating has proclaimed the principles of democracy and free market. In Transdnistria, one tried to keep much of the previous system in the social and economic spheres.

By virtue of different approaches to the solution of existing social, economic, political and other problems, different vision, different systems of coordinates, different systems of readout was generated. It allows speaking about presence of the objective problems caused by existing distinctions in social and economic development.

The economic contradictions between Chisinau and Tiraspol arise also by virtue of different approaches to the change of the pattern of ownership. For the Republic Moldova, as well as for the majority of the countries of the CIS, the nomenklatura privatization was characteristic. The result of such privatization, first of all, became the increase of the share of “shadow” economy and “shadow” capitals in social production and consumption, deficiency of the state budget, growing external and internal debts of the state, export of shadow capitals abroad.

Transdnistria, with its uncertain status for shadow economy of Moldova, plays the role of a certain grey offshore zone, facilitating some part of the Moldovan nomenklatura and shadow business to carry out the export of the capitals and goods abroad and receive in the same way the production from abroad.

Unlike in the Republic Moldova, in Transdnistria all state ownership is under the personal control of the head of republic and its narrow environment. The Transdnistrian nomenklatura adheres to command-administrative methods of management of economy. It uses the market measures only in those spheres of economy where it is already impossible to keep the old methods. As consequence, Transdnistria has none of those negative consequences that are characteristic for nomenklatura privatization.



The economy of Ukraine, as well as other countries of the CIS, also has a mainly shadow character. While the countries of the CIS undergo a deep economic crisis, and the prevailing share of production falls in the shadow part of their economy, Transdnistria, with its uncertain status, becomes a need for everyone who today has close connections with it for moving shadow capitals and the smuggled goods to the third countries.

***The logic of such shadow commodity circulation is proven by the unsettlement of the border issues and weakness of the regime at border of Ukraine with Transdnistria.*** In such a regime are interested not only certain political forces in Ukraine, but also in other countries of the CIS, as Ukraine is the transit country in relation to Transdnistria.

The length of the Ukrainian border with unrecognized Transdnistrian republic is 386 km. At the Ukrainian-Moldavian sector of border, 45 % of smuggling is discovered [1].

In conditions when Chisinau has the legal right to supervise legal export of production from Transdnistria, the smuggling in this republic is erected to the rank of state business. The recognized leader of this sphere of business is the "Sheriff" company. As many analytics specify, Vladimir Smirnov, the chairman of Customs Committee of Transdnistria, the son of President of Transdnistria Igor Smirnov, has the most direct relation to it. The firm operates under the covering of law enforcement bodies of Transdnistrian Moldovan Republic.

Their actions represent carefully planned operations with all the necessary elements - investigation of district, supervision, recruitment of participants and distribution of roles. The routes of contraband caravans, as a rule are chosen the roundabout and field roads that have been not covered with border posts. The activity of smugglers is favored by both difficult economic and social situation in border areas. For the inhabitants of adjoining villages on both sides of the Ukrainian-Moldovan borders, the smuggling or participation in the criminal groupings engaged in theft of cattle, agricultural machinery gradually turns to the basic occupation [2].

Speaking about the situation in Transdnistria, the President of Moldova Vladimir Voronin has noted, that "the region has gradually turned to "a black hole" through which only for six months of the present year, two Transdnistrian banks have carried out operations of money-laundering of amounts considerably exceeding the annual gross domestic product of the region" [3].

From the used annually in Moldova more than 1 million tons of mineral oil, almost half is imported illicitly, without payment of taxes and duties [4].

The smuggling way represents only a part of export of industrial and agricultural goods from Transdnistria. The other part of the goods is exported quite legally under the mark of products of the Republic Moldova, with the use of Moldovan quotas and the Moldovan customs licenses. Such a export scheme was favorable to Transdnistria as it provided Transdnistria with the foreign policy freedom and necessary conditions for the economic development of the republic. Such scheme was also favorable to the ruling pragmatic

nomenklatura in Chisinau, allowing certain clan groupings gain from this certain shadow profit.

With the coming to power of the conservative communist nomenklatura led by President of the Republic of Moldova V. Voronin, the situation in Moldova has changed. The authorities from Chisinau have decided to take under a rigid control the Transdnistrian sector of the Ukrainian-Moldovan border that has resulted in a tension of relations of Moldova with Transdnistria and Ukraine, as it touched the shadow interests of powerful political groups in these republics and other countries of the CIS.

On August 31, 2001, the Government of Moldova announced the withdrawal from the unrecognized Transdnistrian Moldovan Republic of the Moldovan customs licenses due to the introduction of new licenses according to the WTO standards and creation of joint customs points. However, the representatives of Transdnistria have not undertaken any actions for participation in the activity of joint customs points though earlier such consent was given. The President of Transdnistrian Republic Igor Smirnov has regarded the actions of Chisinau as an attempt to organize an economic blockade of Transdnistria. Then the Moldovan customs officers on September 1, 2001 made an attempt to establish joint posts on the territory of Ukraine, however the Kiev authorities did not allow this. Chisinau insists on the creation of joint posts to interfere with the smuggling, which penetrates through the uncontrolled by the Moldovan authorities Transdnistrian region.

The economic losses of Transdnistrian republic as a result of customs and trade blockade on behalf of Moldova have reached 50 million dollars. It makes a quarter of the entire republican budget. According to Smirnov, when Ukraine refused to place on its territory the Moldovan customs officers and by that making unreal the plans of customs isolation of Transdnistrian Republic, Chisinau stopped issuing to the Transdnistrian enterprises the internationally recognized certificates certifying the legality of their products. Without these certificates, the export of Transdnistrian goods beyond the limits of the Moldovan territory becomes impossible. Many enterprises from Transdnistria, including "Electromas" Plant in Tiraspol, Moldovan Metallurgical Plant in Rybnitsa and others, for this reason reduced the current production volumes with 20-30 percent. Tens of contracts with foreign contractors were under the threat of cancellation with a total sum of about 100 million dollars [5].

In reply to the measure undertaken by the leadership of Moldova of enforcing order at the Moldovan-Ukrainian border, the "Tiraspol regime blocked the railway, obstructing the circulation of cargoes to Moldova, including fuel and the humanitarian assistance". "Besides, the Transdnistrian authorities assert that the Tiraspol regime is going to block the supply of potable water, natural gas and the electric power to Moldova," told V. Voronin [6].

Chisinau accuses Ukraine for not supporting the economic sanctions in relation to Transdnistrian Moldovan Republic, letting the Transdnistrian goods pass through its territory without the necessary customs licenses. Moreover, since January 1, 2002, Moldova has introduced new passports due to this fact the population of small, but proud

Transdnistrian republic practically cannot exit, as all foreign diplomatic representatives accredited in Moldova issue visa documents only to citizens of the recognized states. Consequently, already now many inhabitants of Transdnistria try to get the Moldovan or Ukrainian citizenship by any means.

Such aggravation of the situation on the Transdnistrian sector of the Ukrainian-Moldovan border directly infringes upon the interests of national security of Ukraine.

The aggravation of the situation at border and unsettlement of border problems favors the increase of the flux of illegal migrants, smuggling, weapons and drugs through border. The president of Moldova Vladimir Voronin specifies: "On our own experience we got convinced, that the regions controlled by separatist forces, are a constant source of instability and tension, a favorable environment for smuggling, illegal traffic in arms and drugs, money-laundering and illegal migration" [7]. It is enough to tell, that about one third of the withdrawn firearms in Ukraine originates at the border with the Transdnistrian areas.

On the Ukrainian-Moldovan sector are arrested 60% of the infringers of Ukrainian state border. Moreover, 79 % of them violate the frontier at the entrance to Ukraine. On the same sector of the border, during 2001 by the Ukrainian border guards were arrested 4000 units of ammunition that constitutes about 50 % of the ammunition arrested on the entire sector of the Ukrainian border. From Transdnistria through the Ukrainian-Moldovan border passed 83 % of the total volume of the narcotic raw material delivered to Ukraine and arrested by the Ukrainian border and customs services in 2001.

The very interests of national security push Ukraine to search for ways of influence on Moldova with the purpose of demarcation of the Ukrainian-Moldovan border. In this context, it is possible to assume that one of motives of refusal of Kiev to support the economic sanctions against Transdnistria was its intention, thus, to push Chisinau to solve the issue of demarcation of the Ukrainian-Moldovan state frontier.

However, the situation at the borders, as well as a frontier regime itself, is determined not only by internal factors, but also by external factors, the main one in this given region being **the geopolitical factor**.

The influence of the geopolitical factor on the situation of tripartite relations of Moldova-Transdnistria-Ukraine is primarily shown in the geopolitical orientations of these subjects.

**Moldova.** The geopolitical orientation of Moldova since the proclamation of its independence has undergone a certain evolution. At the beginning, Moldova has headed towards an intensive rapprochement with Romania, inclusively counting on its military assistance in the conflict with Transdnistria. Then, with the coming to power of the pragmatic nomenklatura led by Luchinschi, it sharply abandoned this direction. Before the election of the communists to power in 2001, Moldova and its population has been in a condition of uncertainty regarding its geopolitical choice. The Moldovan society had two

choices: to unite with Romania or to exist further as the sovereign, independent and neutral state.

Thus, if this choice did not disturb Moldova, - both choices were acceptable for the population, then for the inhabitants of Transdniestria this choice had a basic significance.

Romania represents for them an absolutely alien ethnic and socio-cultural environment. Hence, such geopolitical uncertainty of Chisinau forced the Transdnistrians to support the independence of the unrecognized republic.

The situation changed with arrival of the communists to power in Moldova in 2001. The geopolitical orientations of Moldova and Transdniestria for the first time have coincided. Just like Transdniestria, the ruling nomenklatura in Moldova sees the future of the country in the Slavic union of Byelorussia, Russia and Ukraine, and although such a union does not yet exist, the main geopolitical reference point for Moldova is Russia.

Such pro-Russia geopolitical aspirations of the communist authority in Chisinau are explained not by ideological, but by quite pragmatic reasons related to the return of Transdniestria in structure of Moldova.

**Transdniestria.** In the same time, in comparison with Moldova, the pro-Russian orientation of Transdniestria has deeper and more complex roots. Unlike Moldova, the Slavic rhetoric of the political regime from Transdniestria is caused by a search of ideology that might unite the population of this region around of its authoritarian authority. Neither national, nor the communist idea may represent such integrating force anymore. The authorities of Transdniestria are inclined to consider as such an idea a certain mix of the opinions expressing the Soviet totalitarian traditions and a certain racial generality on the basis of which the Soviet Union may be restored. As such a generality they are inclined to see the mythical "the Slavic Union".

Nevertheless, the common geopolitical orientation of Moldova and Transdniestria gives a certain hope for the settlement of the conflict between them in case when both sides will be subjects of one state, either the Russian Federation, or a wider Russian state formation. However, here there are two circumstances that essentially complicate the accomplishment of such a dream.

Firstly, at present, the prospective of entering of Transdniestria together with Moldova in a certain third more common state, may hardly satisfy Chisinau. Secondly, the accomplishment of such plans is impossible without the inclusion in this common state of Ukraine, which geographically separates Moldova from Russia and Byelorussia. Hence, the main role in such a unifying process will be played by the geopolitical orientations of Ukraine.

**Ukraine.** For the development of Ukraine in the nearest future, three tendencies will be characteristic: the tendency expressing gravitation to the “fraternal alliance” with Russia; the tendency of the European integration; the tendency connected to the consolidation of independence, unity and integrity of Ukraine as a country and independent state. Depending on the prevalence or combination of these tendencies, the foreign policy of Ukraine will precess between allied relations with Russia, neutrality and the course of European integration.

Depending on course chosen in Ukraine, its position in relation to the settlement of the Transdnistrian conflict will change also. In case of maintenance of neutrality or orientation to the European integration, Ukraine will contribute objectively to the prompt settlement of Transdnistrian conflict, preservation of territorial integrity of the Republic Moldova and also of consolidation of its state border.

However, in the last years Ukraine more and more precisely and consistently shows the adherence to the policy of integration with Russia, which objectively deprives it from all chances to be even in the remote future integrated with the unique Europe. Such re-integrationist way of Ukraine, which could be called "back to Russia", is accompanied by the reconstruction of some elements of authoritarianism. Hence, the revival of authoritarian power in Ukraine and the association with Russia will change the position of Ukraine in the system of tripartite relations “Moldova-Transdnistria-Ukraine”. In such situation, the authoritarian regime in Transdnistria will become even closer to it, which will entail the rapprochement of Kiev with Tiraspol.

With such a scenario of development of the situation, Ukraine will dissolve itself as a independent guarantor of political settlement of the conflict in Transdnistria. Its line of behavior in this process of political settlement will be completely subordinated to the interests of Moscow. This, in its turn, will make Russia the only and the most powerful mediator in the settlement of the Transdnistrian conflict and will allow it set its full control over the situation in Transdnistria and Moldova. However, will this promote the settlement of the conflict Transdnistrian? The answer to this question depends on what extent this settlement will respond to the geopolitical interests of Russia in this region.

**Geopolitical interests of Russia.** The position of Russia concerning the solution of the Transdnistrian problem will remain inconsistent and ambiguous. Such discrepancy is characterized by the objective tendencies of modern development of Russia. These tendencies are formed under the influence of both external and internal factors. The dominant tendency in internal development of Russia in the nearest ten years will become the construction of the “centralized state”. In foreign policy aspect, this tendency will be shown in the fact that the Russian leadership in the solution of Transdnistrian conflict will emphasize the attention to the necessities of preservation of territorial integrity of the Republic Moldova and indestructibility of its frontiers. In this view, Russia will continue to play a positive role of guarantor of safety and stability in the Transdnistrian region.

In the same time, in the foreign policy aspect, Russia obviously in the nearest ten years cannot refuse the claims for restoration of the status-quo of great superpower and dominant influence on formation of the entire geopolitical landscape of Europe. As Russia does not show intention to join the process of European integration, and wants to be a self-sufficient prevailing force in the Eastern Europe, hence, it will have uneasy relations with such European and Euro-Atlantic communities as the NATO and EU. In case of preservation of existing claims, the force and the level of confrontation of Russia with the West will be determined by its internal resources and opportunities. As for Russia the greatest resource until 2010 will remain its military resources, obviously Transdnistria may play a role of a military jumping-off place, which due to the military presence of Russia may render significant military-political influence on all Eastern Europe.

However, taking into account the fact that Russia has already lost the military superiority over the West, sooner the weakness, than the force will push it to partnership relations with the West-European countries and their organizations, such as the NATO and EU, to a policy of bargaining and mutually acceptable compromises. Concerning the countries of the CIS, including Moldova, such a policy will result in Russia's aspiration to support the stability in the European post-Soviet space not on the basis of coordination of interests of the EU countries, but on the basis of exclusive Russian domination, primarily military-political and economic. With such a policy, Russia will not be interested in the renewal of an armed escalation of Transdnistrian conflict. It is obvious that with such geopolitical interests, the variant of a final settlement of the Transdnistrian conflict is not favorable to Russia for it eliminates the reasons for the prolongation of its military presence in this region.

The policy of Ukraine, in case of preservation of its pro-Russia re-integrationist course, will be also subordinated to the geopolitical and strategic interests of Russia. Being guided by the logic of such policy, Ukraine, obviously, will leave the borders with Transdnistria and Moldova open and will refuse their demarcation. The air space of Ukraine should also be open for flights of the Russian military aircraft to Transdnistria and Moldova.

The relations in the triangle: Moldova-Transdnistria-Ukraine, as well as the settlement of the Transdnistrian conflict, is also influenced by other external factors such as the interests and policy of such influential geopolitical players on the European continent as the USA, NATO, EU, Romania.

**The USA.** As long as the conflicts in the Balkan are not completely settled, the United States will hardly show a big interest in the destiny of Transdnistria and the settlement of the Transdnistrian conflict. Today the Transdnistrian issue interests the USA only to what concerns the establishment of the control over the spread of weapons from the combat arsenals in Transdnistria and neutralizations of the Russian military domination in the region. However, some corrective amendments in such position of the USA could be introduced by the American antiterrorist campaign in case that the US services will find illegal deliveries of weapons from Transdnistria to the international terrorist organizations.

**The NATO.** The policy of the NATO in relation with Transdniestria in many respects will be motivated by the interests of the USA, and, hence, in its actions in the region the Alliance will be guided by the same American motives. This problem will increasingly interest NATO in the process of approach of the second wave of its expansion towards the East. With the acceptance of Romania as member of the Alliance, NATO will be compelled to engage in the solution of this problem, for then the issue of settlement of the Transdniestrian conflict will touch directly the interests of safety of the Alliance.

Among other external factors of at the regional level, it is possible to outline the factor of influence of Romania.

**Romania.** The influence of Romania on the process of settlement of Transdniestrian conflict will be determined by the domination of two tendencies in its foreign policy. First of them is the tendency of connection of the historical grounds, which actually means the unification with the Republic Moldova in one state. The domination of this tendency in the beginning of '90 substantially promoted the emergence of the Transdniestrian conflict. However today, and obviously in the next years, Romania will keep the course of European integration, whose ultimate goal is the inclusion into the European Union and the NATO. The adaptation of Romania as a member of these communities in the next decades will exclude the possibility of its destructive influence on the process of settlement of the Transdniestrian conflict.

Thus, the analysis of the above-mentioned factors allows asserting that in the next five-ten years the geopolitical landscape of southeastern region of Europe will undergo dynamic changes. Such instability and uncertainty of the international juncture in the region predetermines the **poly-alternativeness of scenarios** of development of tripartite relations: Moldova-Transdniestria-Ukraine, as well as the process of settlement of the Transdniestrian conflict.

At the same time, the combination of the multitude of external and internal factors at more or less precise expressiveness of the factor of the Russian domination and Pro-Russian geopolitical orientation of all the subjects of tripartite relations, substantially narrows the field of their maneuver in the use of external forces and choice of strategy of development of the problems of tripartite relationships.

These two contradictory tendencies allow to outline a discrete number of typical scenarios of development of relations in the triangle "Moldova-Transdniestria-Ukraine". Depending of the ratio of the specified external and internal factors, three most common scenarios of development of tripartite relations are probable: confrontation, uncertainty, integration.

**The confrontation scenario.** The basic precondition for the development of such scenario is the unsettlement of the Transdniestrian conflict. This scenario appreciably reflects the present condition of relations between Tiraspol and Chisinau. Other thing is that this confrontation has not developed into an armed escalation of the conflict. However, it does not eliminate the question, whether the development of this scenario in such direction is

possible. The contemporary international practice gives an affirmative answer to this question. Today the same force variant of conflict resolution is shown by the Russian Federation in the Chechen Republic.

However, the analysis of the factors and conditions with reference to Transdniestrian conflict confirms the unlikeness of recurrences of such scenario in the future. The internal factors reducing the probability of occurrence of the similar scenario are:

- Absence for Transdniestria of aggressive goals in relation with Moldova. Political objectives, which could be solved by military way, have already been achieved by Transdniestria during the armed escalation of the conflict in 1992;
- The presence in the safety zone of tripartite peace-making forces;
- Unpopularity of military-power methods for the solution of the Transdniestrian problem among the most part of the population from the Republic of Moldova;
- Mutual political obligations of the conflicting parties regarding the non-use of force;
- Presence in Transdniestria of efficient combat-ready army, which surpasses the Armed Forces of the Republic Moldova in the potential;
- Presence on the territory of Transdniestria of the Operative group of the Russian army.

From all stated factors, the basic resulting factor constraining the armed escalation, is the adverse balance for such scenario in the ratio of potentials of armed forces of Transdniestria and Moldova. The national army of Moldova has a total of 8500 persons, 209 units of armored vehicles and 205 artillery weapons. The number of staff of the Armed Forces of Transdniestria involves 7500 military, 67 combat armored vehicles and 115 units of artillery. However, if to take into account the available in Transdniestrian warehouses weapons of the former 14-th army, it turns out that the region is one of the most militarized in Europe. Now in military warehouses there are 49476 units of small arms, 805 artillery systems, 655 units of combat machinery [8].

Such a balance excludes the opportunity of solution of the Transdniestrian problem in a military way. However, the unlikeness of renewal of an armed escalation of the Transdniestrian conflict does not exclude the confrontational relations between the two parties. The factor promoting the development of relations between Chisinau and Tiraspol with such a scenario is the presence of an authoritarian regime in Transdniestria, and also possible attempts to restore an authoritarian regime in Moldova.

It is obvious, that the actions of these internal factors will push Chisinau to solve the Transdniestrian problem using non-military power methods. One of such methods is the economic blockade or economic sanctions against Transdniestria.

However, in this case it is necessary to take into account that the actions of this character in relation with Transdniestria may result in the complication of relations between Chisinau and Kiev, which actually has already taken place in the fall of 2001. In conditions of confrontation of Chisinau with Tiraspol, Kiev maintains the most



advantageous position, playing a role of mediator and guarantor of political settlement of the conflict. However, such position appears rather vulnerable in case of obvious overweight of one of the parties in this confrontation. In such situation, even the role of guarantor forces Kiev to support the position of weaker side. The confrontation scenario maintains the constant tension at the Ukrainian-Moldovan border.

It is necessary to attribute to external factors the circumstance, that none of the external forces will be interested in the renewal of the armed escalation of the conflict neither now, nor in the near future.

**The scenario of uncertainty.** The scenario of uncertainty implies the maintenance of peace, but it does not provide sufficient opportunities for its final fastening or in other words for “peace-building”. Starting from this, any failure or unsuccess in peaceful process of settlement, will contribute to the strengthening of viability of the scenario of uncertainty. Finally, this development of the situation in such direction will result in the “Taiwanization” of the Transdnistria’s status.

The scenario of uncertainty of relations of Chisinau and Tiraspol with Kiev to the greatest extent corresponds to the present domestic situation of Ukraine and its uncertain multi-vector foreign policy. Such scenario provides a wide choice of tools for the construction of tripartite relations; however, the productivity of their application seems rather low. Such relations remind of the game with zero variant. One cannot expect a big prize in such a game, but there is the confidence that it is impossible to lose much.

In such scenario of development of tripartite relations, the frontier regime at the Ukrainian-Moldovan border remains uncertain too. The problem of demarcation of the border is postponed for an indefinite term. The border will further remain transparent for smuggling, transit of drugs and weapons. Such a scenario will be further alimented by shadow economy of Ukraine, Moldova, Transdnistria, CIS countries and the countries from the southeastern region of Europe.

**The re-integrationist scenario.** Such scenario of development of relations are based on the re-integration tendencies representing the aspiration of influential political forces in the Slavic countries of the CIS to restore the common state. This tendency represents a process of inverse-sovereignty of republics of the former USSR. It is caused by the weakness of the new independent states, and insufficiency of both internal and external resources for the national state consolidation in these countries. To what concerns the system of tripartite relations, this re-integration tendency may be presented at two levels.

**First level** reflects the re-integrationist tendency occurring within the system of tripartite relations;

**Second level** represents the reintegration of all three subjects of relations within a wider state unity, as the Byelorussia-Russia Union or a stronger state, as the Russian Federation.

The separation of the reintegration tendency into these two levels is rather relative, as the processes developing at these two levels are closely interconnected among themselves. It is worth mentioning, that the reintegration scenarios for both levels are stacked in the so-called concept of "common state".

For the first level, the accomplishment of the concept of "common state" may be carried out in two scenarios: confederations and federations. Thus, it is necessary to notice, that the reintegration tendencies do not correspond to the purposes and aspirations of Tiraspol, pursuing the consolidation of sovereignty of the republic. For the political leadership of Transdnistria, the status of the independent state is desired, therefore the accomplishment of the reintegration scenario as confederation is considered by Tiraspol as a logic step for acquiring by Transdnistria of full state sovereignty.

**The scenario of confederation.** This scenario represents the concept of reconstruction of the common state of Moldova and Transdnistria on a confederative basis. However, for the conclusion of confederative relations with Moldova, Transdnistria lacks the necessary external conditions. Such relations Transdnistria may expect only in case of amplification of Russian domination in the region and, as result, the achievement of official arrangements with NATO regarding the delimitation of spheres of influence in the Eastern Europe. Nevertheless, so far Russia has no intentions to assert for Transdnistria the status of confederative relations with Chisinau. Besides, for this purpose it has neither internal, nor external resources.

Hence, the confederative relations may act only as a certain foreign policy anchor, serving for Transdnistria as guarantor of safety and preservation of its independent status within the "common" with Moldova state, built on closer federal relations. As such external resource, there might be confederative relations of Transdnistria with Ukraine. At the moment of tensioning of relations with Chisinau, I. Smirnov already addressed to Kiev with the request for unification of Transdnistria with Ukraine [9]. However, this offer, except for separate representatives in the Ukrainian parliament, has not found support in Ukraine. Such unification is impossible also from the formal-legal point of view. Ukraine is a unitary state. This circumstance does not allow it to attach Transdnistria neither on federal, nor on confederative conditions.

The internal and the foreign policy of Ukraine oriented towards the preservation of integrity of the state and observance of territorial integrity of other countries does not provide the bases for Transdnistria to expect for unification with Ukraine in any form. Understanding it, I. Smirnov obviously put forward such initiative in counterbalance to the pressure of Chisinau.

**The scenario of federation.** In the accomplishment of the scenario of federal construction of a "common" for Moldova and Transdnistria state, Ukraine as well as Moldova, will aspire to end the normative-legal and infrastructural registration of their borders, and consolidation of the frontier regime at the Ukrainian-Moldovan sector. Hence, such script meets the interests of national security of Ukraine.

The scenario of a common federative state of Moldova and Transdniestria most likely will be favorable also to the Russian Federation. Such scenario is better connected with its military-political interests in this region. In case of creation of the federation, Russia receives the chance to change the neutrality status of the Republic of Moldova and thus create the necessary legal conditions for the prolongation of the military presence in Moldova.

However, the accomplishment of the "federation" scenario is primarily obstructed by the internal factors, such as the presence of an authoritarian regime in Transdniestria and its possible restoration in Moldova, and also the factor of "shadow" economy. The negative action of these internal factors provides certain bases for the accomplishment of the scenario of common state on the second, wider level of action of reintegration processes.

The common geopolitical orientations, gravitation to the authoritarian regime and domination of shadow economy, allow to speak about the inclusion all three subjects of relations in a wider context of the model of "common state", such as the scenario of state union and the Russian Federation.

**The scenario of "state union".** This scenario is already embodied in the Byelorussia-Russia Union. The Moldovan communists expressed their intentions to join it, however only before the moment of coming to power in Moldova. The President of Transdniestria, I. Smirnov, repeatedly expressed intentions to join this Union. "To settle the Transdniestrian problem is possible by gradual rapprochement of two independent states - Moldova and Transdniestria. However, we see our future in the Union of Russia and Byelorussia", - he said told [10]. The majority of inhabitants of Transdniestria - 63% also believe that this unrecognized republic should have a political-legal status within the structure of the union of Russia, Byelorussia and Ukraine. This is proved by the results of the survey carried out by the Centre of Analytical Researches "New century" among 964 inhabitants of Transdniestria and published at the beginning of 2002 in Tiraspol. Out of the respondents, only 28 % consider that Transdniestria should be an independent state [11].

Such scenario is also rather favorable to the accomplishment of the Russian re-integrationist geopolitical ambitions for it opens the possibility full "association of Transdniestria to Russia or to the Union of the Russian Federation with Byelorussia, together with Ukraine" [12]. Without such a company with Ukraine, the association of Moldova and Transdniestria to the Russia-Byelorussia Union loses any sense. Without a common territory of the state formation, it turns to an international organization.

It is necessary to notice, that the creation of such a state union as Byelorussia-Russia is favored by both internal, and external factors. However, the frailty of such combination as the Byelorussian-Russian Union is explained, most likely, by the nature of authoritarian regimes. The authoritarian regime from Byelorussia tries to keep the full control over the economic and material resources, and also over the political institutions in the republic, a fact that interferes with the progress of the Russian economic and political interests in the

territory of Byelorussia. In the accomplishment of a similar scenario, the same result should be expected both in Transdnistria and in Moldova.

Therefore, as an alternative for the advance of Russian interests is the scenario of reintegration with the Russian Federation. Such scenario may imply two variants of its accomplishment.

**The first variant** of accomplishment of such scenario represents the association of Transdnistria to the Russian Federation on conditions of confederation. However, the confederative relations of Russia and Transdnistria are also unlikely, as the new forces, which have come to power in Russia, renounced the idea of restoration of the “former USSR” and in the nearest ten years will be occupied with the consolidation of centralization of their own state. The leadership of Russia, with all external allure of such relations for the achievement of the Russian geopolitical ambitions, obviously, understands that the Russian Federation can hardly swallow such a unstable community as Transdnistria, Byelorussia and Ukraine with its present confusion of its own state system. The most acceptable to Russia will be the scenario of protectorates.

**The scenario of protectorates** implies the transfer under the full control of Russia of economic resources, infrastructures, information and spiritual sphere, external and internal policy of these three subjects of relations with formal preservation or recognition of attributes of statehood of these independent countries.

Such scenario is most successfully accomplished by the leadership of Russia in relation to Ukraine. The basic framework of such scenario is: the creation of joint (in the long-term common future) credit and financial system, restoration of a common power, transport system and system of communication, accomplishment of a large-scale shadow privatization, common information space and common defense-industrial complex.

In such scenario, the administrative status should be returned to the Ukrainian-Moldovan border.

However, the accomplishment of this scenario is again obstructed by the authoritarian regime in Transdnistria and the unwillingness of the Moldovan communists to carry out a privatization contradicting to their ideological principles. Consequently, the most probable short-term scenario will be *the script of uncertainty* of development of relations in the Moldova-Transdnistria-Ukraine triangle. Transdnistria in such scenario will have a large opportunity to consolidate itself as an independent state.

## **Conclusion**

The avoidance of such pessimistic future is possible only with the condition of neutralization of the negative action of the above-mentioned both internal and external regional factors.

For this purpose, it is necessary to:

1. Change the vector of geopolitical orientation by all three subjects of relations from Russia to Europe;
2. Withdraw the Russian armies from Moldova and Transdniestria, export and destruction of the ammunition stored in this region;
3. Market economic transformations in Moldova, Transdniestria and Ukraine and structural reorganization of their economy with orientation towards the inclusion in the global economic system;
4. Attract foreign, primarily western investors;
5. Internationalize the process of settlement of the Transdniestrian conflict;
6. Finalize of contract-legal and infrastructural delimitation of the border between Moldova and Ukraine;
7. Overcome the gravitation to authoritarianism in Moldova and Ukraine and consolidate of democratic institutions. Demolish the authoritarian regime in Transdniestria.

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## **Settlement of the Transnistrian conflict as a way to the creation of the regional stability zone in Eastern Europe**

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Transdnistria is the most conflict-generating zone on the Ukrainian border. The existence of a zone of instability in this region continues to provoke not only tension in the Ukrainian - Moldavian relations, but also negative pressure on the socioeconomic and conflict-generating processes in boundary areas of Ukraine.

*In spite of the fact that **today the Transdnistrian conflict has lost practically any ideological, geopolitical and ethnic attributes, it has kept a high level of a pressure in the relations between Chisinau and Tiraspol administrations.***

Along with the victory of communists in parliamentary elections, the political authority in Moldova has acquired political uniformity externally. It has brought in essential corrective amendments to the processes of the Transdnistrian conflict settlement.

I. Smirnov's victory in presidential elections of Transdnistria on December 9, 2001 has actually marked the beginning of a new stage of aggravation in the opposition between Tiraspol and Chisinau. On December 10, 2001 V. Voronin has confirmed, that he does not see any perspectives in negotiations with I. Smirnov and that the further negotiations are possible only with the change of Transdnistria's leader. Actually, the negotiating process was suspended from Chisinau's initiative.

### **Administrative-territorial problems of the Republic of Moldova**

Moldova's communist government attempts to take under control all branches of authority in the country and to finish the "coloring" of the Republic of Moldova's authority in red. It will enable the supervision of all the administrative resources of the country and will speed up the establishment of control of CPRM over financial flows in all economic areas of the country.

One of the obstacles in the way of the CPRM is the local self-government. In order to eliminate it, the parliament of Moldova has developed a plan for administrative-territorial reform; its first step should have been the accomplishment of pre-term local elections on April 7, 2002. Early elections should have been carried out in connection with the modifications in the Law on local self- government.

Actually, CPRM, which represents the parliamentary majority, has tried to take complete authority in the country: from the parliament up to the local councils.

The new law contained two mechanisms for this purpose - election of heads of local administration not through direct vote, but through voices of local advisers, and the return to the regional administrative distribution, instead of, recently introduced, district

distribution. Actually, on one hand, Vladimir Voronin tried to weaken local "barons" who have received, according to his opinion, a too big district authority and on the other hand to receive control over Chisinau's financial flows, which make up approximately 70% of the total amount available in Moldova. Communists have attempted to displace the mayor of Chisinau Serafim Urecheanu for a long time.

The idea on pre-term local elections was completely supported by the president of the Republic of Moldova. The president has even slightly outrun the events, mentioning the date of their occurrence before the official authorization of the parliament.

However, the administrative-territorial reform was condemned by the Council of Europe. A number of western politicians have declared that they were against the accomplishment of this reform. The aggravating situation in Georgia, the amplification of the opposition's reaction in Chisinau, the lack of dialogue with Transdnistria - all these have resulted in the fact that the government of the Republic of Moldova gave up temporarily on its plans.

On February 19, 2002, the Constitutional Court of Moldova recognized the illegality of the decision of the Moldovan parliament regarding the accomplishment of elections of local authorities on April 7. Officially the question of "illegality of parliament's decision" was examined on the basis of the appeal made by deputies belonging to the parliamentary faction of Christian Democratic Popular Party. Out of six members of the Constitutional Court who examined the inquiry, four members were in favor of recognizing the decision of the parliament as not constitutional. Two have wished to express a special idea.

Nevertheless, the decision of the Constitutional Court does not mean the refusal of the territorial reform, which was conceived by communists, it only transfers its terms and is based on that the decision of the parliament interrupts the power of representatives of the present local administration elected through national vote for four years.

*"The Parliament has to study the decision of the Constitutional Court in which the bases for abolition of the decision on establishment of the date of local authorities elections are stated", - the Head of CC of Moldova Victor Puscas has declared. The question on establishment of a new date for elections may be raised only after the elimination of the incurred irregularities regarding the Constitution.*

The Parliament refused to provide any comments concerning the decision of the CC. In the same time, the reaction of the president V. Voronin was more than quiet. 40 minutes (!) after the announcement of the decision by the CC, the president made a statement where in particular, it is marked that: *"No normative act contradicting the Constitution, may be valid. The Constitutional Court of the Republic of Moldova is the unique body of constitutional jurisdiction, which guarantees the supremacy of the fundamental Law. In this context, as the President of Republic Moldova and as the guarantor of the sovereignty, national independence, unity and territorial integrity of the country, I call that the higher and local authorities, the government, the political parties, the political organizations and citizens of Moldova operate in severe conformity with the decision of the Constitutional Court. I am sure, that observing the decision of the Constitutional*



*Court will confirm entirely adherence of our state to the democratic European norms and values."*

The use of forceful methods in solving political problems has caused displeasure on the part of the internal opposition; territorial contradictions (Georgia and Transdnistria) were pointed. The Government of the Republic of Moldova was facing a real threat to be internationally isolated. The Assistant of the US Secretary of State on Europe and Eurasia, Steven Piffer, who visited Moldova in February, spoke about possible consequences of violent actions for the Republic of Moldova.

The Vice-minister of foreign affairs of the Republic of Moldova Ion Stevile has noted that the perspective of Moldovan-American relations would be determined by the development of the political situation in Chisinau. Washington has not yet developed an exact position regarding this matter. Actually, Piffer has stated his cautions to the government of Moldova concerning the possible consequences for Chisinau in case of application of force methods while solving a crisis situation or a territorial question.

V. Voronin has taken advantage of the decision of the CC, in this way, *first of all*, has kept his "European face". *Secondly*, he has strengthened his authority, which essentially loosened as a result of the external and internal political failures, and, simultaneously, has precisely shown, who actually the head of Moldova is.

It is necessary to mention, that according to the Constitution of the Republic of Moldova, the President of Moldova is a nominal figure elected by the Parliament, while the first person in the state is the speaker of the Parliament - Eugenia Ostapciuc. The actual authority of Voronin is based on the fact that he is the leader of the Communist Party and has a great influence over the communist parliamentarians. The Constitution of Moldova does not mention anything about party government of the country. It is necessary to draw a precise line between Voronin - the president and Voronin - the chairperson of the Communist Party.

However, today this line appeared dim. ***The actual concentration of all authority from the country in the hands of one person took place, which, in effect, is a silent form of coup d'état and an establishment of personal dictatorship. This dictatorship appears absolutely irresponsible as in case of failures the president easily leaves in the shadow, hiding behind the CC, the Government and the Parliament.***

### **New Chisinau approaches regarding territorial settlement**

The opposition of Tiraspol and Chisinau appeared to be favorable to both parties. However, if Transdnistria plays blockade rhetoric with the purpose to put political pressure upon Chisinau in the context of renewing the negotiating process (in order to draw the attention of world community), and its persistence may be regarded as tactical maneuver ***Moldova shows power politics in solving its own territorial problems.***

The present character of Moldovan-Transdnistrian relations in Tiraspol is explained by V. Voronin's aspiration to complicate by any means the renewal of negotiations and to force Transdnistria to approve the Moldovan project of Transdnistrian problem settlement. Chisinau enforces the power politics also in the solution of Gagauz-Yeri matter.

Last year, at the end of October Chisinau has directed to Gagauz-Yeri and Transdnistria the law draft regarding amendments to the Constitution of Moldova, which should adjust the national-territorial issue. As representatives of Comrat have declared, this project does not provide any expanded autonomy either to Gagauz-Yeri, or to Transdnistria.

The basic requirements of the administration of Gagauz-Yeri addressed to Chisinau are concentrated around the question of privatization of state property. At the moment of passing the law regarding the special status of Gagauz-Yeri, Chisinau already had a significant external debt, therefore the Moldovan government tried to distribute its increasing volume "uniformly". Payments regarding the external debt demanded urgent distribution of Moldova's property rights on different industrial targets, and also objects of power and transportation, placed on the territory of Gagauz-Yeri and Transdnistria, for their possible privatization without coordination with the management of these territorial units.

According to its "special status", Gagauz-Yeri has the right to engage directly in economic affairs with other states and regions, however in practice Chisinau constantly creates obstacles, particularly in questions of property privatization.

Thus, the question of territorial autonomy and special status of Gagauz-Yeri has an economic and administrative basis. The national coloring of the given conflict arises already as consequence and does not represent a key. Leaders of Gagauz-Yeri artificially paint the conflict in national colors. Chisinau also politicizes the conflict. While Comrat is ready for negotiations and compromises (within reasonable limits), Chisinau persistently stakes on power methods for solving the problems. Therefore, Tiraspol and Comrat coordinate their efforts in the organization of an "opposition" to Chisinau, which more and more shows its inability to translate a problem of territorial settlement into a course of dialogue and compromises. The Moldovan authority is not ready for the federalization of the country, which de facto already exists. Therefore, the "special statuses" and consolidation of "autonomies" in the frameworks offered by Chisinau do not answer to the interests of the heads Gagauz-Yeri and Transdnistria.

It should have pushed V. Voronin's administration to search for other forms of negotiations instead of continuing to press on Comrat and Tiraspol. However, "V. Mishin's commission", which prepared the draft of changes in the Constitution of Moldova, sent to the leaders of Gagauz-Yeri and Transdnistria the next document in which their positions were not taken into consideration.

“Chisinau knowingly simulates the negotiating process, making loud declarations regarding the development of new approaches, offers, concepts etc. The consumer of these declarations is Moscow, OSCE and the world community. V. Voronin's administration tries to show its readiness for dialogue and at the same time does not see those with whom it should negotiate<sup>1</sup>”.

At the end of November 2001 Chisinau declared that it intends to realize the project of "Mishin's commission", concerning Moldova's territorial-administrative facilities. That would strike naturally on the interests of Gagauz-Yeri.

At the beginning of December, the pro-governmental mass media of the Republic of Moldova, including in the pages of the official newspaper "Sovereign Moldova" the relations between Chisinau authority and Comrat were artificially put into discussion<sup>2</sup>.

On December 11, 2001 the National League of Mayors' Associations, the Federation of local and regional authority and the Association Gagauz-Yeri mayors adopted the Application "concerning the new threats to local and regional self-management in the Republic of Moldova ". The document mentions that “the restoration of the territorial - administrative facility which has exhausted itself, on the basis of small districts with limited economic and social opportunities, will make impossible the development of regional centers with powerful industry and social infrastructure ”. " We vainly hoped that the top management of the Republic of Moldova, having listened to a voice of reason, would not begin to destroy the basis of the territorial and local autonomy stipulated by the European charters on local and regional autonomy. During the last weeks, unfortunately, we realized that our protests were not heard and that pretended deafness of dignitaries of the highest rank hides itself behind egoistic party and personal interests... This is why "people of Moldova should say a firm "no" to the policy promoted by Chisinau”.

In this context, on behalf of the National league of Mayors' Associations of Moldova, of the Federation of local and regional authority, on behalf of the mayors of Gagauz-Yeri:

1. We resolutely protest against the intentions and attempts of destruction of the present system of local administration;
2. We condemn the projects, which prepare the "division into districts" of territories and the organization of local elections to which we shall resist with all lawful ways;

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<sup>1</sup> Babilunga N.V. «Paradoxes of the Moldovan negotiating process»// Citation from the Bulletin of the Research Center for civil society problems, - №2, 2002, Page.7

<sup>2</sup> In the article of V. Abramciuc from “Sovereign Moldova” (8.11.2001p.) "The Gagauz matter: how to normalize it?" meaning "the normalization of Moldovan-Gagauz relations". In this context, the contradictions between the leadership of the Autonomous Unit Gagauz-Yeri and the Republic of Moldova acquire an international aspect. Besides this, in the interview given to the state television, the vice-speaker of the parliament V.Mishin declared that “the road from Comrat to Chisinau leads through Tiraspol”, meaning the “separatist tendencies of the leadership of the Territorial Administrative Unit”.

3. We are full of determination to draw the attention of the international community to the restoration of state administration which is prepared, based on total centralization, on full disrespect of the system of autonomy of territorial communities of citizens of the Republic of Moldova;

4. We leave behind ourselves the right to call all representatives of local administrations elected by people, society, diplomatic representatives that operate today in the republic, to solidarity against these antidemocratic projects ".

The elaboration of the project decision of Gagauz-Yeri National Assembly on the political situation in Moldova and further mutual relations between Chisinau and Comrat was completed in December 2001. The document was prepared according to the implementation of the decision of the eighth congress of Gagauz deputies (advisers) of all levels, which was held on November 18 in Comrat. In the project, it is particularly marked that the management of TAU Gagauz-Yeri states its disagreement regarding the recommendations offered by " Mishin's commission " regarding the constitutional changes concerning some status positions of TAU Gagauz-Yeri, and also reserves the right to organize referendums in a number of settlements in the south of the Republic of Moldova regarding entry in the autonomy's structure and its denomination.

Understanding, that Chisinau tries to make pressures on Comrat with the purpose to liquidate the bases of Gagauz-Yeri autonomy, the leaders of Gagauz-Yeri have actually started to prepare for the realization of a referendum concerning the status of autonomy in Moldova's structure and the principles of its relations with the central authority of the Republic of Moldova. The law project regarding the modifications and amendments to the Constitution of the RM concerning the status of Gagauz-Yeri, developed in Comrat was brought for wide public discussion.

Appearance of these documents in Chisinau was considered as the actual beginning of preparation for a referendum on the form of self-determination of Gagauz people. The first attempt to acquaint a maximal number of inhabitants of Gagauz-Yeri with the contents of some clauses of the law project was carried out by the political newspaper "Gagauz Halki" ("Gagauz people") which was issued for three years on the Tiraspol polygraph base and distributed by ten-thousand copies within the TAU. The project stipulates the introduction of such concepts as "Gagauz citizen" and "Gagauz Republic". It also foresees that Gagauz-Yeri has the right to "independently solve its administrative-territorial matters", and has an "exclusive right" – to separate from the Republic of Moldova based on a general referendum.

Obviously, such activity of Gagauz management caused counteraction from the part of official Chisinau.

Moldova's central mass media carried a campaign against Gagauz-Yeri management during January - February 2002. Official Chisinau accused the leaders of Gagauz-Yeri of separatism, of cooperation with Transdnistria and of criminal offenses. V. Voronin's administration initiated a movement for resignation of the head (Bashkan) of Gagauz-Yeri Dmitry Croitor, this movement was headed by pro-Chisinau deputies from the

National Assembly of Gagauz-Yeri as well as by some heads of Gagauz cities, members of the CPRM.

A group of pro-Voronin deputies of Gagauz-Yeri National Assembly led by I. Kristioglo and I. Topal declared in February 2002 in Gagauz-Yeri, upon direct support from official Chisinau about the preparations for realization of a referendum concerning the resignation of the head of local executive authority Dmitry Croitor according to the reveals made by the Moldovan Court of Accounts regarding financial infractions depicted in his activity.

The Bashkan itself and the leaders of the National Assembly have declared this decision as not legitimate and contradicting a number of laws of the independent - territorial district (Gagauz-Yeri).

Nevertheless, the president of Moldova Vladimir Voronin, and the Ministry of Internal Affairs called the Gagauz population to take part in the referendum in order to state democratically their attitude towards Gagauz management.

Besides this, representatives of management of the Ministry of Internal Affairs (the deputy minister of internal affairs Kulicitski) and of the Moldovan Service of Information and Security arrived in Comrat. They tried to displace the commander of Gagauz police. According to IA Olvia-press, a battalion of internal armies of special destination "Fulger" from Moldova was put in the condition of full alertness for incoming the Autonomy<sup>5</sup>.

In the same time, the municipal police of Gagauz-Yeri (controlled by the Bashkan) was transferred to the amplified mode of service performance. The volunteers who arrived to the house of executive committee formed national teams, which were lead by workers of law enforcement bodies of Gagauz-Yeri.

On February 24 the chief of legal protocol management NA of Gagauz-Yeri Ivan Burgudji, declared the referendum illegal and the activity of the Central elective commission as illegitimate, he withdrew from the last the documentation and the seals. From February 23-24, unknown persons stole the ballot box from the Electoral committee. Thus, the referendum appeared disturbed.

Forces of Gagauz municipal police blocked the groups of operative forces of the Republican Ministry of Internal Affairs and sealed the rooms of the Security and Information Service of Moldova. Fortified posts of State Auto Inspection, of municipal police, carabinieri and national teams were dislocated on all entrances in Gagauz-Yeri.

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<sup>5</sup> Press-release of the IA "Olvia-press// Citation from the Bulletin published by the Research Center on Civil Society Problems, - №2, 2002, page.7

As the chairperson of the National Assembly of Gagauz-Yeri Michael Kendigelean has declared, it is necessary to return the matter regarding legitimacy of the activity of executive authority into legality. Presently the Gagauz-Yeri management entirely supervises the situation in the Autonomy.

In the context of the aggravating Gagauz-Yeri crisis, the ambassadors of France and Turkey, the head of the diplomatic corps of USA and Germany (Pamela Smith and Michael Zikirik), representatives of OSCE mission in Moldova, the Congress of local and regional authority of the Council of Europe visited the Autonomy.

The situation of Gagauz-Yeri has interested as well "the Venetian commission" of the Council of Europe. However, formally, the arrival of its delegation headed by the general secretary Janni Buccicho had a scheduled character and was carried out upon invitation of the Moldovan Parliament, its real reason was determined by the latest events in the Autonomy. The commission arrived in Moldova in order to estimate the project of amendments in the Constitution of the Republic, according to which Gagauz-Yeri will receive the constitutional right for existence (until now the TAU Gagauz-Yeri existed as an unconstitutional unit).

A struggle developed around access to the commission: Chisinau tried to limit delegates' communication only to the Gagauz deputies loyal to Chisinau. However, management of Gagauz-Yeri National Assembly and the Bashkan had negotiations with representatives of the Venetian commission.

*Such international activity supporting the present management of Gagauz-Yeri has resulted in that the president of the RM "backed into the shadow" again. However, the leaders of the RM carry out a regrouping of forces both in Gagauz-Yeri, and in Chisinau for the ulterior undertaking of leadership in the autonomy.*

### **Aggravation of the conflict between Chisinau and Tiraspol**

The aspiration of present Moldovan authority to achieve qualitative shifts in settlement of the Transdnistrian conflict comes first of all from the desire of the Communist Party of Republic Moldova (CPRM) to receive significant political dividends as the party “of unifiers of the country”, and also to change significantly the structure of the Moldavian electorate due to the population of the left bank of the Dniester river.

Besides this, the success of the economic efforts of official Chisinau depends on the results of relations settlement with Tiraspol. So, the realization of the most promising economic projects for Moldova in the sphere of transport communications (transport corridors to Europe using the Danube - zone of Reni - Galati - Giurgiulesti) and power engineering (reconstruction of the left-bank Moldavian district power station, integration of the RM in the unique Ukrainian - Russian power system, export of electric power to the Balkan countries) will be possible only after settlement of the Transdnistrian crisis.

However, the specificity of modern relations between Chisinau authority and Transdnistrian administration in the political, as well as in the economic sphere practically excludes the probability to achieve in the near future any significant positive results in the process of Transdnistrian crisis settlement.

In particular, the essential reduction of the amount of export-import transactions of the Transdnistrian enterprises caused by the introduction of new customs regulations on the Ukrainian border, performed by Chisinau on September 1, 2001, as well as the application of new customs seals, determines for a half-year a negative atmosphere of further contacts between the representatives of these parties<sup>3</sup>.

Tiraspol management might avoid partly the negative consequences of such actions of Chisinau, trying, at least, to simulate readiness for the establishment of more constructive relations with the Moldovan government. Nevertheless, I. Smirnov during the last months obviously aspired to keep pressure in the relations with V. Voronin, keeping thus a “security distance” from Chisinau leaders.

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<sup>3</sup> According to the official data from the Commission on coordination of activity of the state administrative bodies of Transdnistria (established after introduction of seals), total economic losses incurred by Transdnistria exceeded 4 million USD (the losses on imports solely amount to about 2 million 200 thousand USD).

Maintaining an image of a country leader, who found himself in a situation of economic blockade, is favorable to I. Smirnov. Tiraspol uses the pause in the negotiations with Chisinau. Such tactics operated by I. Smirnov actually caused absence of progress in the Moldavian-Transdnistrian dialogue, resulting in which Tiraspol continues to accuse Chisinau of violation of the arrangements achieved earlier.

From its part, the Moldovan government does not try to veil the “anti-Transdnistrian” orientation of customs innovations, continuing to specify, that “Transdnistria is a residence to numerous mafia clans”, whose basic profit sources are export operations, smuggling of fuel, tobacco, weapons, drugs and “trafficked persons”<sup>4</sup>.

It is obvious that presently the economic sanctions are directed first of all against the leader of the Transdnistrian region. In the same time, Chisinau leadership does not hide its interest in establishing control over the big industrial targets of Transdnistria. In particular, the Moldovan prime minister V. Tarlev foresees the following development of events: “... first of all replacement of customs seals, then common customs with Ukraine on the perimeter of Transdnistrian border segment, after that - registration of Transdnistrian enterprises in Chisinau and as a result payments in the budget of the Republic of Moldova by economic agents of the left-bank of Dniester...” Nevertheless, “the customs blockade” of the left-bank areas of Moldova hardly appears effective as means of fighting against smuggling, as the shadow business does not use customs seals.

On the eve of presidential elections in Transdnistria, the Moldovan president declared that he would attempt to change the Transdnistrian leader, who “is exhausted as a politician”. “The experience of previous meetings with Smirnov showed that there are no results of negotiations with him or with his entourage”, - declared V. Voronin. Official Chisinau declared the elections of December 9, 2001 as illegal and called the international society to avoid contacts with the regime of I. Smirnov and no to send any observers to the elections.

In the same time I. Smirnov, the leader of Transdnistria declared, that “in case of re-election, he will negotiate with the president of the Republic of Moldova, with Voronin, or whoever else”. The leader of Transdnistria intends to obtain during these negotiations “the creation of a common state, in which two independent subjects with equal rights – Moldova and Transdnistria will enter”.

After the elections in Transdnistria the negotiating process between Tiraspol and Chisinau practically stopped. The president V. Voronin admitted the fact of lack of understanding with the Transdnistrian leadership. The declarations of intermediary-countries Russia and Ukraine have not activated the negotiating process.

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<sup>4</sup> In 2001 Transdnistria exported goods for the amount of over 230 million USD



## **“The Russian factor” in the Transdniestrian conflict settlement**

Russia has a special influence in the development of the Transdniestrian situation and over solving the existent problems. Kremlin’s policy regarding Moldova in general and within the framework of the Transdniestrian settlement is based on the fact that Transdniestria represents a “key” to Moldova. Without the restoration of Moldova’s state integrity upon coming to the power of communists the Russian Federation will not be able to use the full potential of the increasing pro-Russian feelings on the banks of the Dniester river, because status quo to the Transdniestrian matter will mean emergence of “double standards” in Moscow’s actions towards Moldova. This, at its turn, will disturb the confidence of the present Moldovan leadership towards Russia.

Moreover, the successful settlement of the conflict, from Kremlin’s point of view, determines the status of the Russian troops on the Moldovan territory, as well as the degree of Russia’s approaching the instability zone in the Balkans and its level of influence on the development of the situation in this area<sup>5</sup>.

The uniting of the economic systems of the Republic of Moldova and of Transdniestria will have certain positive outcomes for the Russian Federation, especially through:

- establishment of necessary conditions for export of electrical power to the Balkans after reconstruction of the Moldovan district power station with Russia’s participation;
- reduction of prices on the Russian foodstuffs market due to the output of Moldovan agricultural production on the Russian market;
- maintenance of appropriate functioning of the transportation corridors through the Republic of Moldova, which may additionally lower the costs of Russian transportations in case of expansion of opportunities of the Danube ports of Reni and Galati.

Besides the existence of various approaches in the Russian political sphere regarding the Transdniestrian conflict settlement, Kremlin will probably consider the following first of all:

- The status of Transdniestria may not be lower than the status of a subject of a federation, which will allow the region to have a certain influence over the policy of the country;
- There exists a self-sufficient administration on the left bank of the river, which will attempt to preserve its status. The basic impediment to the normalization of relations between Chisinau and Tiraspol is actually the present leadership of Transdniestria.

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<sup>5</sup> Moldova’s dependency on the Russian gas is easily perceptible. Over a half of the energetic resources are imported to Moldova from the Russian Federation. Out of 1.2 milliard USD of foreign debt, about a half is the debt of Moldova to “Gasprom”. Moreover, this is about two times more than the amount of yearly national budgetary income.

Tiraspol represented until recently the advanced post of the Russian Federation in the region, however along with coming to power of V. Voronin in the Republic of Moldova the situation changed radically. The positions of Transdniestria were undermined, the political weight of I. Smirnov and his influence in Moscow appeared on a lower level than that of the president of the Republic of Moldova V. Voronin. Moreover, the positions of V. Voronin augmented as a result of signing the agreement between the Russian Federation and the Republic of Moldova on November 19, 2001.

The amplification of V. Voronin's positions in Kremlin are confirmed by the declaration of the first vice-minister on foreign affairs V. Trubnikov, who declared to "Interfax", that Russia does not consider the elections in Transdniestria as legitimate, "from the point of view of international law they do not have any lawful foundation". The Transdniestrian Republic, according to Russia, is a "self-declared territory".

However, there was no official declaration made by the Russian Ministry of Foreign Affairs regarding this matter. According to the deputy of State Duma of the Russian Federation V. Alksnis, based on the decision taken by State Duma of the RF on November 27, 2001, signed by the vice-speaker L. Slizka, the Russian parliament officially sent its observers to the Transdniestrian elections.

Thus, the declaration of V. Trubnikov may represent the official position of the Russian Ministry of Foreign Affairs, which "corresponds to the norms of international law", but does not correspond to Kremlin's feelings. However, experts consider that the only fact of appearance of such declaration proves the attempt of consolidation of Chisinau, and Moscow's effort to play up to Voronin.

I. Smirnov won the presidential elections, getting 80% of the votes from a total of 65% of Transdniestria electors, who showed up on December 9, 2001 to vote. The majority of analysts forecasted I. Smirnov's persuasive victory. No other alternative candidate had sufficient support from the population of Transdniestria.

However, on the December meeting of OSCE in Bucharest the US State Secretary C. Powell mentioned that Russia achieved success in a number of regional security matters. Especially, he pointed out the progress in Moldova, with which Moscow came to an agreement regarding the matters of withdrawal of military equipment. At its turn, Washington is ready to offer Russia 14 million USD for these undertakings.

This type of event development will determine Tiraspol's opposition, which does not agree to care the role of the passive observer and will strive to re-acquire the role of an equal-rights participant in the negotiating process. The dissatisfaction of a part of Transdniestrian leadership by Moscow's position regarding the possibilities of conflict settlement will determine the withdrawal of Transdniestrian political forces from the pro-Russian orientation to the activization of relationships with other partners, first of all with Ukraine.

It is possible that this, particularly, caused the precipitate political declarations made by Chisinau regarding the Ukrainian customs policy on the Ukrainian-Transdnistrian border soon after signing the Moldovan-Russian Major Agreement. Moldova answered the note of the Ukrainian Ministry of Foreign Affairs dated on November 29, 2001 only on December 5, fact which witnesses the complicated agreement processes within the Moldovan authority. Moreover the Moldovan note, along with the declaration that *“Moldova appreciates the role of Ukraine in the process of settlement of the Transdnistrian conflict”*, carries the regret, that the Ukrainian party *“continues to allow transportation of goods through the state border without any effective customs documentation”* and demands *“to immediately cease this practice”*.

Under such scenario of events development it is impossible to exclude, that such behavior of the Moldovan leadership might have been the manifestation of Kremlin's dissatisfaction towards Ukraine's policy in this region, rather than own manifestation.

#### Weakening of the “Romanian factor” in the Transdnistrian settlement

Lately the relationships between Moldova and Romania are characterized by certain coldness. The Romanian prime-minister A. Nastase while carrying out the forum on the Central-European Initiative has disagreed to translations in the “Moldovan language”. He declared that there is only one language - “the Romanian language”. The Romanian Ministry of Foreign Affairs sent an official note to the official Chisinau regarding the refusal of Moldovan state bodies to register the Bessarabian Metropolitan Church of the Romanian Orthodox Church. The idea of protection of the Romanian citizens, dwelling in Moldova becomes increasingly pressing in the Romanian parliamentary circles.

At the end of the last year the senator of the National-Liberal Romanian Party A. Radu proposed to the Romanian senate to hold a meeting with the participation of the president and of the minister of foreign affairs in order to determine the basic directions of Romania's policy regarding Moldova. Correspondingly, to the senator's declaration, the catalysis of Bucharest activity should be the rapprochement of the new Moldovan leadership to the Russian Federation.

It is not clear yet how Bucharest's fears can emerge regarding the fate of the pro-Romanian driven citizens of Moldova. The politicians of the right wing insist upon the active participation of the Romanian administration in all negotiations regarding the Republic of Moldova, even to the allocation of minimal credits by the international financial organizations.

In the same time, one might observe a certain synchronizing of unfriendly actions regarding Ukraine in Romania and Moldova with submission of accusations and appeals to the European community. Such synchronization of actions, possibly, testifies not only the existence of certain agreements between Chisinau and Bucharest, but also the existence of common interests, even situational, based on which Moldova and Romania might form a coalition against Ukraine.

## **The role played by Ukraine in the process of settlement of the Transdnistrian conflict**

The particularities of the situation in the Transdnistrian region require appropriate attention from Kiev. Along with military-political factors, the problem carries as well the humanitarian and economic component.

The population of Transdnistria counts 600 thousand, from which 28% are Ukrainian (40% are Moldovan and 25 % are Russian). In the conditions of propagation of modern administrative-legal norms of the center over Transdnistria, there might appear problems with ensuring of informational and cultural-human necessities for the Ukrainians and Russians.

Besides this, compared to Transdnistria, the process of state construction is significantly slowed down in Moldova, related to the change of state administration.

As a matter of fact, after chronic political crisis the communists have to prove at least their ability to govern effectively in the framework of the existent political system. For comparison the indices of social-economic development of both banks of the Dniester River demonstrate not in favor of Moldova (starting with the year 1996, GDP per capita in Moldova was 1.5-2 times lower than in Transdnistria). Transdnistria takes the lead over the Republic of Moldova in the formation of its own, including political identity<sup>7</sup>. As a result, the idea of uniting Transdnistria to Ukraine becomes increasingly popular among Transdnistrian Ukrainians, probably as a result of an increasing political influence of the Union of Ukrainians of Transdnistria.

From the pragmatic point of view, further inhibition of transportation flows, as well as non-observance by Transdnistrian partners of contractual obligations towards the Ukrainian partners, will lead to significant under-collection of profits from work with Transdnistrian economic agents by Ukraine.

*The amount of foreign trade turnover between Ukraine and Moldova (including Transdnistria) in the year 2000 increased compared to the year 1999 by 43.4% and represented 211.6 million USD (including exports – 176.3 million USD, and imports – 53.3 million USD). During the last 9 months the amount of foreign trade turnover between these countries increased by 56.7% compared to the respective period of the last year and amounted to 231.4 million USD, including export of Ukrainian goods to Moldova – 190.6 million USD, import – 40.8 million USD. Moldova places second after Russia regarding exports of Ukrainian goods.*

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<sup>7</sup> According to the data coming from social questioning (which was performed in November 2001 by “IMA-Consulting”, Russian Federation, Moscow), a part of the inhabitants of Transdnistria, who consider themselves first of all citizens of Transdnistria, make up 34.9% (13.9% consider themselves inhabitants “of their locality”), while only 4.4% of the respondents consider themselves citizens of the Republic of Moldova, as they are practically for the international community.

The amount of foreign trade turnover of Transdnistria with Ukraine for the first half of the last year amounted to 34.1 million USD, to Ukraine were exported goods evaluated at 4.1 million USD and goods imported from Ukraine were evaluated at 30 million USD.

About 30 Transdnistrian enterprises maintain economic contacts with over 55 big Ukrainian enterprises. The biggest part of import-export operations is carried out by the Moldovan Metallurgic Plant (MMP) in the town of Rybnitsa, which during the last year purchased raw materials amounted to over 25 million USD from Ukraine.

Every month the MMP acquires from Ukraine 50 to 60 tons of scrap metal. The Rybnitsa complex monthly sends 75 thousand tons of scrap metal through the Ukrainian ports.

It is not rational for Ukraine to carry out an economic blockade versus Transdnistria (transfer into Moldova's treasury of payments resulting from customs operations by Transdnistrian enterprises will finally result in weakening the economic "independency" of Transdnistria) because of:

- Increasing instability in Transdnistria will negatively influence the economy of Ukraine; will lead to an increasing instability at the Moldovan-Ukrainian border, first of all in the northern districts of Transdnistria, where indigenous Ukrainian population dwells; will generate flows of refugees and forced immigrants from Transdnistria to Ukraine;
- Weakening the relations with Transdnistria may negatively influence the international image of Ukraine, it will "allow" the other countries to speculate on the Ukrainian topic, to press over Ukrainians' rights.

Ukraine, in the role of an intermediary-country loses the initiative in the process of normalization of the regional situation, especially considering that V. Voronin, often uses more radical and straightforward methods of entertaining the "dialogue" with the Tiraspol administration.

Absence of the Ukrainian party from the meeting regarding settlement of the Transdnistrian conflict, which took place on April 20 of the current year in Vienna, was appreciated unanimously by the western analysts as Kiev's elimination from the negotiating process. It was not taken into consideration that the topic of Vienna consultations was not the political settlement of the conflict but the matter of withdrawal of armed forces and military equipment belonging to the Russian Federation from Transdnistria, - this was not considered as basis for carrying out of negotiations without the Ukrainian party.

The exchange of notes of protest between Ukraine and Moldova, regarding "the tolerant attitude" of Kiev regarding "Transdnistrian smuggling" and evasion from establishment of common customs, shows Chisinau's tendency to eliminate Ukraine from the negotiating process in Transdnistria by all means. *First of all*, in 1996, as a result of the negotiations between Tiraspol and Chisinau, Transdnistria received the right to perform

independent customs control<sup>8</sup>. *Secondly*, Ukraine possesses the practice when presence of customs seals on the goods crossing the Ukrainian customs border, is not compulsory. This is not solely a Ukrainian practice, in this way Ukraine works with many other countries.

Taking into consideration the specific character of the situation, which arose as a result of customs securing, introduced on September 1, 2001 by the Republic of Moldova; however, Ukraine is obliged to allow cargos not showing signs of smuggling or any other criminal origin. This does not conflict with the norms of international law. Moldova did not yet offer an answer to Ukraine regarding the documents of international law, which official Kiev violated, according to Chisinau's opinion.

Regarding the matter of establishment of common customs, Moldova and Ukraine have elaborated different approaches regarding the technology of establishment of these common admission points. The Ukrainian side considers that the reason for the creation of common checkpoints is ease of crossing the border for people and merchandise, this is exactly how common checkpoints function in all the countries of the world, who agree upon such action. The Ukrainian approach is exactly like this.

However, Moldova intentionally politicizes the customs matter trying to press over official Kiev in order to eliminate it from the negotiating process concerning Transdnistria.

The complexity and dynamism of the situation determines Ukraine to elaborate the strategy of Ukrainian-Moldovan political relationships taking the format of Kiev-Tiraspol-Chisinau. The components of this strategy may become the following:

1. Observance of the "five-side" format for carrying out of negotiations. This position was supported during the meeting of representatives of Ukraine, of the Russian Federation and of OSCE on November 22, 2001 in Prague.

2. Effectiveness when working with the Ukrainian Diaspora in Moldova. It is necessary to carry out an active cultural and informational policy in the region aiming to increase influence over compatriots, dwelling on Moldovan territory (including Transdnistria) and Romania. Especially to elaborate rationally a complex of measures of state (material and informational) support to the Ukrainian schools, lyceums, Sunday schools, cathedras of Ukrainian language and literature. To offer assistance to the Ukrainian language publications and bureaus of local TV and radio companies. In the same time, Ukraine needs to contribute to the development of initiatives of the Moldovan, Romanian and Gagauz Ukrainians. Kiev has to stimulate its work regarding assuring the rights of the national minorities to cultural and society development.

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<sup>8</sup> Memorandum on the principles of cooperation between the Republic of Moldova and Transdnistria from 1997, signed by Ukraine and Russia. In May of the year 2001 Chisinau and Tiraspol confirmed the previous agreement, including the matter regarding the necessity to organize a common Moldovan-Transdnistrian border and customs control on the border with Ukraine. However, these agreements were not realized.

3. Creation of the informational center of the Ukrainian community in Moldova (with a branch in Tiraspol), which should have a double connection – to propagate information on Ukraine, and to offer materials regarding the Ukrainians living in the region. It is necessary to contribute to the creation of similar centers for the Moldovan, Romanian and Gagauz communities.

4. Observing the formula of “multi-level diplomacy” with Chisinau, Tiraspol and Comrat. Especially the initiatives of the local Ukrainian administrations, which are located on the border with Transdnistria and Moldova, should receive comprehensive support, directed to deepening the economic cooperation. To establish the activity of the functioning consultation offices of the local heads of the frontier districts of Ukraine, Moldova (including Transdnistria and Gagauz-Yeri).

5. Utilization of the special role of the “euro-regions” (“Lower Danube” and other) in which Ukraine, Romania and Moldova take part. Within this framework the frontier cooperation may be extended, and cooperation in the cultural and social spheres might be deepened etc. The Euro regions contribute to more transparent international relationships in every participant-country of the “euro-region” (regular monitoring, meetings at the level of public organizations).

6. Influence of weakening the Transdnistrian blockade and settlement of the conflict situation in Gagauz-Yeri. Ukraine loses important profits from introduction by Moldova in September of the last year of the new customs regulation and implementation of the practically economic blockade to Transdnistria. Kiev has already proven the firmness regarding organization of the common Ukrainian-Moldovan customs. Further negotiations with Moldova on this matter are possible only upon V. Voronin’s readiness to hold a dialogue, but not to transfer his internal problems over the Ukrainian-Moldovan mutual relations.

7. Wide discussion regarding the future status of Transdnistria and Gagauz Yeri considering that more than 100 thousand Ukrainians live in Transdnistria, while an important Moldovan, Romanian and Gagauz Diaspora exists in Ukraine. Such discussion will allow to reveal groups of politicians, non governmental organizations, representatives of mass media in Moldova (in Transdnistria and Gagauz Yeri), in the Russian Federation, in Romania and in countries of the European Union which might act as Ukraine’s partners in the settlement of the Transdnistrian conflict, in the creation of the regional stability system. In the same time, the discussion will allow the formation of a certain community idea within Ukraine itself.

Such discussion might take place on different levels, along with attracting leading experts from Ukraine, Russia, Romania, Europe and Moldova.

**The first level of discussion** – is the organization at the state level of conferences and of seminars with the participation of experts, businesspersons, politicians and public officials.

**The second level of discussion** – discussing the situation in the region by the representatives of political parties, of public organizations of Ukraine, Russian Federation, Moldova (with the participation of representatives of Transdnistria and Gagauz-Yeri),

Romania and elaboration of recommendations; seminars on border cooperation; thematic conferences (ecology, social problems etc.)

The public organizations, having an influence over the community's opinion and the state authority bodies might act as initiators within the framework of organizing the second level of discussion.



## **The Indirect Impact of Increasing Border Security**

G.Chiorean, Programme Co-ordinator, IPP, Bucarest, Romania

Deep changes that took place in the Republic of Moldova and Romania during the last dozen of years, especially those related to the shift to market economy, included important administrative reforms aimed – in part – at facilitating free trade and population flow through borders that once used to be under very strict control.

The geo-political condition of this region was deeply influenced during these years by major changes – the former Socialist countries focused on political, economic and social changes, new states emerged pursuant to the collapse of the former Federative Republic of Yugoslavia and the Union of Soviet Socialist Republics, Moldova being one of them. National development plans, strategies, doctrines re-focused their strategic objectives and the relations with international organizations and institutions were reconsidered, according to the new context. Traditional trade directions changed, new borders appeared and new customs units were established.

Some of the bodies with customs authority and responsibilities are relatively new, others have to adapt their operations to fully new procedures, based on or inspired from – by and large – models used in the European Union. Many current partners of the national agencies operating at our borders claim, though, that their performance is poor: border traffic is hampered by long queuing periods and one has to “slalom” through all agencies, which, by the way, increases international shipping services costs and makes trade impossible to foresee, customs dues collection is not always optimal, corruption and smuggling are popular with customs staff yet.

All these flaws condition trade hampering and have macroeconomic effects similar to those caused by protectionist policies, they discourage initiatives meant to increase competitiveness and discourage direct investments.

Difficulties at border crossing are related to:

- infrastructure and equipment
- legislation
- organization and management
- informatization level
- staff training and motivation (especially related to wages)
- inter-institutional cooperation

Though there are programs funded either from local sources or from international ones that have attempted during all these years to find solutions to some of the issues listed above, their practical impact is limited, especially due to the lack of coordination among such projects and the lack of a clear global border reform strategy, as all activities were focused on some border authority, while an integrating approach is needed, given the

need for cooperation between national agencies and between national agencies and their counterparts in other countries.

This narrow approach is gradually replaced by programs that take into account more general aspects of border activities, including trans-border cooperation, aiming at better cooperation and introducing compatible efficient up-to-date work practices.

Given this background, as the expected date of Romania's acceding the European Union gets closer, the natural question to be asked is what the impact of integration will be like and, further on, what impact will have Romania's acceding upon the relationships between Romania and the Republic of Moldova. Repeated political assertions were aired regarding the future of the two countries given the expanding of the European Union; however, it is necessary to approach this topic in a realist study that would include both advantages and negative costs of integration.

The decision that has brought an important change in the Eastern European region was taken at the Reunion of the Justice and Home Affairs Council of the European Union on December 7, 2001, when it was decided to abolish visas for the Romanian citizens who wanted to travel to the Schengen zone, starting on January 1, 2002. It made Romania undertake new responsibilities and duties to ensure the internal security of the member states. Those who benefit from visas abolishment also have increased responsibilities, they must comply with the conditions agreed upon with the European Union. This decision of the European Union has great political significance and will as well have a major impact from the economic and social viewpoints. Due to the expanding of the European Union the external frontier of the Schengen zone will move eastwards and more restrictions for the free circulation of people from Central and Eastern Europe will be imposed. As the Eastern border of Romania becomes a Schengen frontier with Ukraine (649.4 km long – 273.8 km by land, 31.7 km – by sea, and 343.9 km – on Danube) and the Republic of Moldova (681.3 km long), in order to comply with EU requirements special attention should be paid to maintain regional integration as well, so that Romania's integration into EU does not imply its marginalization and the break of social and economic connections with neighboring countries. Increased frontier security should not mean adopting measures that hamper the free circulation of people, but rather focus on preventing crimes and ensure compliance with legal provisions.

The aim of maintaining the balance between candidate countries and third parties is currently one of the toughest challenges that might have a significant impact, especially from the economic viewpoint. Thus, it should be mentioned that recently the Ministers of Foreign Affairs of EU member states voted in favor of the proposals to establish new relations with Ukraine, Moldova and Belarus, bearing in mind that these three countries will have common borders with UE members once Romania and Poland are admitted to EU. This initiative was approved because, in the opinion of EU member states, pursuant to EU expanding the European Community will face new issues at its Eastern border. In order to curb such issues related to transfrontier crime, trafficking, and illegal immigration, one of the solutions proposed by the UK was to give Moldova, Ukraine, and Belarus the "special neighbor status", to be reviewed and defined by the European

Commission during the Danish Presidency, starting from July 2002. By providing the “special neighbor status” it is desired that the three states benefit from the liberalization of trade with the EU and cooperation related to justice, home affairs, security, and defense, with a view to apply economic and political reforms.

However, it is certain that, in order to harmonize the negative list of Romania with that of the European Union, Romania has introduced mandatory visas for the citizens of Russia and Ukraine since the beginning of 2002, pursuant to the bilateral agreements that had been negotiated previously. As for the citizens of the Republic of Moldova, the requirement for mandatory visas will be in place from the moment when Romania joins the European Union. According to the Ministry of Foreign Affairs, the preferential relationship with the Republic of Moldova has determined Romania to provide a special regime, registered officially in the position document of the negotiation chapter #24 on justice and home affairs, and thus the citizens of the Republic of Moldova need no visa to enter Romania until it joins the EU, and one may cross the border between Moldova and Romania just by presenting the Moldovan passport.

Double Moldo-Romanian citizenship is an issue that should be discussed separately, as the legislation of Romania and that of the Republic of Moldova disagree on this matter. In Romania legislation allows double citizenship, the Romanian state may give Moldovan citizens Romanian citizenship at request. The Constitution of the Republic of Moldova that came into force from August 27, 1994, however, sets forth in article #18 that “Except in those cases where international accords adhered to by the Republic of Moldova have different provisions, no citizen of the Republic of Moldova may be simultaneously a citizen of another country”. Besides, Law 5/1991 restricts the right to double citizenship. It conditions a number of issues both from the procedural viewpoint – e.g. the customs regime for the citizens of Moldova who are also citizens of Romania at the internal borders of the EU, and from the political viewpoint, i.e. the relations between Romania and the Republic of Moldova; the regulation of this issue is a major factor in the cooperation of the authorities in both countries. However, it should be pointed out that the people who have double – Romanian and Moldovan – citizenship may travel in the Schengen zone under the same conditions as Romanian citizens, as long as they comply with legislation.

When it comes to transfrontier cooperation, another important factor is the collaboration within Euroregions. The increased globalization of world economy is a fundamental feature of the beginning of this millennium and it means that the trend to reduce and eliminate barriers between national economies and the intensification of relationships between countries under various forms is a significant characteristic of this process. In order to strengthen cooperation between Romania, the Republic of Moldova and Ukraine were established the Euroregions “Upper Prut” (September 22, 2000) and “Lower Danube” (August 14, 1998). The activities of the Euroregions so far have focused on establishing a joint framework to develop a calendar of tripartite meetings for information and documentation regarding issues of common interest, including high level meetings, on consulting and coordinating matters related to environment protection, small trade facilitation in adjacent zones, including by arranging new international customs units, on

initiating joint appeals to international economic and financial organizations to ensure the funding of projects of common interest, agreed upon by means of tripartite cooperation, on collaborating and developing a plan of measures to fight organized crime, terrorism, illegal trafficking of weapons and forbidden substances, illegal migration, and illegal border crossing.

Euroregions were established as zones for joint project initiatives that would meet regional needs and objectives that can be achieved with the contribution of more than one country, they have the role of encouraging cooperation between different social levels in different countries. Euroregions mirror the level of cooperation of countries at the national level, they initiate a wide range of projects that are developed in a way that would emphasize the advantages of each participating country, as well as to make participants aware of the values, advantages, and liabilities while implementing joint projects. Frontiers that separate the three countries that participate in the regions mentioned above are not a real barrier in promoting joint actions, and the securization of the Romanian frontier does not aim at blocking the flow of goods, people, ideas or collaboration initiatives, but rather at facilitating any type of exchanges under the conditions of full safety and transparency.

One of the major factors in fighting transfrontier crime is the signing by Romania and the Republic of Moldova of the Agreement of the Re-Admission of Foreigners. In order to apply the provisions of the Agreement both countries must accept the foreigners, including stateless persons, who, when coming directly from their national territories, cross the frontier illegally or are illegal residents of the country that is a party to the Agreement. Concerned authorities, both in Romania and the Republic of Moldova, have repeatedly alerted the Governments of their countries that, under current conditions, disagreements had arisen repeatedly between Moldovan and Romanian authorities, due to the insufficient regulation of this issue. Currently, the Agreement has been ratified by the Parliaments of both countries. The provisions of the Agreement are important for securing the people flow between the two countries, and the application of its provisions should start without further delay.

Given the increased illegal migration rate, the European Commission has expressed its concern and proposed recently a number of measures on integrated frontier management in order to strengthen the external frontiers and the idea that the freedom of circulation does not mean decreased safety for the citizens of member countries. "External borders of the European Union are sometimes viewed, reasonably or not, as the weak link, affecting the internal security of the Union, especially when it comes to the EC space where internal frontiers have been abolished. Besides, by the results of all opinion polls regarding EU expanding, the population has repeatedly drawn our attention toward the need to maintain or even to increase the internal security level within the Union", stated in a press release in early May 2002 António Vitorino, the Commissioner for Justice and Home Affairs.<sup>110</sup>

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<sup>110</sup> Press-release: Towards Integrated Management of the External Borders of the Member States of the European Union, DN: IP/02/661, Bruxelles, May 7, 2002 (unofficial translation from Romanian)

On the long term, the new vision proposed to increase frontier control will impact directly the Eastern frontier of Romania with Ukraine and the Republic of Moldova, i.e. stricter control, mandatory procedures, re-shaping the framework, as well as procedures for small frontier trafficking, increased attention being paid to operational consultancy and cooperation mechanisms, risk evaluation and staff training. Current restrictions, as well as potential new requirements on frontier security must be understood as a natural need aimed at increasing security within the Union. However, the indirect impact should not be overseen, especially regarding the goods and people flows. Thus, it is to be noted that a specific outcome of establishing the new border regime at the Romanian frontier will be the slight decrease of the legal people and goods flow from the Republic of Moldova.

Romania was visited last year by about 5 million foreigners, i.e. the inflow decreased by 6.2% compared to 2000. This evolution can be explained by the decreased number of foreigners coming from the Republic of Moldova – because the requirement on passport-based entry to Turkey, Greece, and Switzerland was introduced since July 2001. From the viewpoint of the total number of foreigners entering Romania, the largest shares have Hungary (22.9%), the Republic of Moldova (20.9%), Bulgaria (7.9%), Germany (6.6%), and Ukraine (6.6%). Most foreigners entered Romania using vehicles (3.62 million), airplanes (705,200), trains (476,300), and ships (135,100).<sup>111</sup>

As for illegal migration, during the first months of 2002, 9,179 foreigners were not allowed to enter Romania, given improper travel papers – expired visas or passports, passports without entry visas, the unavailability of the mandatory minimal funds, false or counterfeit passports or visas, etc. Most foreigners in this category came from the Republic of Moldova – 5,074, Hungary – 1,935, and Ukraine – 794. Compared to the same period during the previous year, the number of foreigners who have been denied entry to Romania has increased by 31%.

499 people leaving the country did not have proper documents, had false or counterfeit passports or visas, or were guides. Most foreigners who did not meet requirements for leaving Romania were citizens of the Republic of Moldova – 131, Turkey – 75, and Ukraine – 33. Compared to the same period of the previous year, the number of foreigners who have been refused to leave Romania increased by about 23%.<sup>112</sup>

As for economic issues, during the first quarter of 2002, Romania's foreign trade was mostly focused on the European Union countries. Compared to the first quarter of 2001, export to the European Union increased by 3.4% and amounted to 71% of total export. Import increased as well compared to the same period of the previous year, by 1.3%, most import (57.5%) comes from the EU member states. It should be mentioned that import from countries undergoing transition decreased by 3.5% and amounts now to 22.3% of total Romania's import. The key partners importing to Romania during the first quarter of 2002 were Italy – 21%, Germany – 14.4%, Russia – 7.3%. As for Romania's neighbors, Hungary exported to Romania 3.4%, Ukraine – 2.5%. Import from the

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<sup>111</sup> Source: Ministry of Tourism

<sup>112</sup> Source: Main Frontier Police Inspectorate

Republic of Moldova is insignificant, Moldova is not included in the list of 25 top importers to Romania; however, no major changes in Moldova's export to Romania occurred, compared to the same period of the previous year.<sup>113</sup>

This study covers some aspects that would be affected indirectly by the securization of the Romanian frontier; however, they should be taken into account both by the authorities of Romania, Moldova, and Ukraine and by European officials, in order to decrease the indirect impact of the Schengen customs regime upon common people in these countries, without affecting the internal securization of the European Union. Thus, a number of conclusions and recommendations should be made:

Romania has decided not to require visas for the citizens of the Republic of Moldova until it is integrated into EU. This measure does not mean full freedom at the border or the abolishing of the requirements of customs control. For Romanian authorities, in their efforts to meet criteria for the integration in the Euro-Atlantic structures, this decision means the undertaking of outstanding liabilities, and local and central administration authorities should be well aware of that. However, the issuing of Schengen visas for Moldovan citizens – the so called visa-for-visa procedure, is an issue that impacts indirectly the situation at the Romanian border. Hence, a solution might be the facilitation of issuing Schengen visas for the citizens of the countries where there are no embassies or consulates of EU member countries, by establishing EU working offices for this matter or by introducing the possibility to get visa application forms by mail or email.

The issue of increasing the security of the frontier between Romania and the Republic of Moldova does not only limit to the frontier line between these two countries. As long as no securization measures are undertaken, such threats as illegal transfrontier migration, weapons and drugs trafficking, organized crime will persist or even increase. It is urgent and critical to settle the issues related to the Eastern border of the Republic of Moldova, where it meets the border of Ukraine.

The region to which belong Romania, the Republic of Moldova, and Ukraine faces a number of alarming issues, some of them may become a threat to the stability of the region. Undoubtedly, the solving of these issues cannot be the liability of one country, as long as human trafficking, vehicles, drugs, and weapons trafficking, to name the most dangerous ones, cross the borders of a country. Given insufficient communication between concerned authorities in every country, to implement in a sustainable manner the Schengen provisions and regulate the flow of goods and people an ongoing regular communication framework is a must for the concerned authorities involved in frontier matters. The objective of goods and people flow securization cannot be achieved if national authorities involved in frontier matters do not cooperate, do not exchange relevant information on a regular basis, and do not share the same vision on the border securization strategy with a view to increasing regional security. From this viewpoint, cooperation starts from specific pragmatic measures. It is needed that all institutions of the country contribute information and use a joint database with relevant data (especially data included in informational systems) that are updated all the time. From another

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<sup>113</sup> Source: Main Customs Directorate

viewpoint, institutional cooperation should aim at using control criteria applied to goods, people and vehicles crossing the border that are shared by all authorities, bearing in mind risk profiles defined by each authority (on different matters, e.g. illegal migration). The results of controls carried out at customs units by one authority should be available to all authorities involved in frontier matters, as well as the action plan for preventing such problems in future.

As for the Euroregions to which Romania is a party (including Upper Prut and Lower Danube), they might be a proper framework for supporting regional cooperation by developing transfrontier programs.

Given that both Romania and the Republic of Moldova face economic difficulties, in order to equip properly customs control units, so that they meet efficiency and budgetary efficacy requirements, joint customs control solutions might be feasible. To be specific, previous practices, e.g. mobile customs control teams that would service several customs units should be evaluated to see whether they will be suitable in future for the border between the two countries (and not only them). There are precedents of international support provided for needed acquisitions for implementing such solutions.

Frontier securization relates to changing mentality, it should be viewed as a means to ensure free safe access of reliable people to other countries. The efforts to develop good relationships between concerned customs authorities that would follow modern principles of such activities and ensure the securization of the Romanian border, the facilitation of border crossing, and the strengthening of border control should be channeled towards a number of major directions:

- agree upon operating procedures, or work jointly;
- improve border cooperation between all national authorities and counterparts from the two countries;
- improve information exchange between relevant services in both countries, within a systematic well-defined framework.

## Smuggling as cross-border crime

Col. V.Galca, head of division, Ministry of Internal Affairs, Ph.D fellow

Smuggling is one of the most serious infringements in the field of customs juridical relations, since its perpetration attempts to affect or in fact violates social values of a paramount importance for the public order and the legitimate interests of the citizens of the Republic of Moldova, as well as of foreigners and stateless persons that are under the jurisdiction of the Republic of Moldova. Smuggling brings to the following major consequences:

1. Smuggling prejudices economic interests of a state, because relevant taxes and customs duties are not charged for these goods.
2. Smuggling breaks up monopoly on foreign trade (in the fields where it still exists).
3. A threat is posed on public security (in cases of smuggling of weapons, drugs, etc.).
4. Through smuggling cumulated with fiscal evasion shadow economy is being maintained and expanded.
5. Incrimination of smuggling is also necessary due to the state's obligation not to infringe the rights and interests of its citizens (especially those in the customs field).
6. Also we can add to the list of the reasons the fact that there is a number of international conventions and treaties, which ban international flows of certain substances (such as drugs, explosives, etc.).

According to Articles 67 and 70 of the Penal Code (PC) of the Republic of Moldova, as well as to Article 46 of the Constitution of the Republic of Moldova the material object of smuggling must be confiscated. Yet, as practice shows, sometimes, smuggled goods are not confiscated. These problems are partially due to a rather complex procedure of application of Article 75 of the PC, namely to those norms that directly prescribe the confiscation of goods. Thus, both the new procedure and the one formulated in Law of 10.IX.98, specify the confiscation of *goods, objects and other valuables that are an object of smuggling*, while paragraphs II – IV specify the *confiscation of property*. In this regard, a more specific cross-border crime is a contraband of electric power, which is a movable commodity and represents an economic value.

An aspect that complicates difficult activities of counteraction and documentation of cross-border crimes is the factor of the breakaway Transnistrian region where the legitimate law enforcement and control bodies of the Republic of Moldova cannot fulfill their duties. Its geographical location at the border with the Ukraine, as well as foreign support of the anti-constitutional regime substantially facilitated a growing number of cases of smuggling committed by the business operators from this territory, as well as the use of this region by other economic agents.



In this regard, the competent bodies have revealed a series of schemes of smuggling. Some of the most simple are the following:

I. A business operator that has no fiscal relationship with the budgetary system of the Republic of Moldova smuggles goods due to the fact that the border between the Transnistrian region and the Ukraine is absolutely transparent. Subsequently, these goods are divided in smaller lots and sold in the Transnistrian region or on the whole territory of the country without paying appropriate taxes and duties.

II. A business operator that has tax relations with the budgetary system of the Republic of Moldova, and also has warehouses or juridical address in the Transnistrian region imports material goods. These goods are being received and afferent duties, which are smaller than those stipulated by the Law on the Budget of the Republic of Moldova are being paid. Subsequently, goods are sold to other business operators, often to phantom companies.

III. A business operator imports raw materials (goods that in most cases are excisable) for being processed. Later on these raw materials are exported to foreign companies (phantoms), but material goods remain in the country and are sold in the Republic of Moldova according to the schemes mentioned above.

In these cases the budget revenues of the Republic of Moldova are affected by the evasion from paying excise-duties, custom duties, value added taxes, income taxes of enterprises and individuals, the same refers to the Social Fund contributions. The money flowing from the cross-border crimes are being used for the maintenance of shadow economy, which, according to some surveys, is estimated at 40 – 60% of the share of the real economy.

The geographical location of the country and the international treaties signed by the Republic of Moldova are used to their utmost by the delinquents operating in the Transnistrian region (and not only) while committing cross-border crimes. To prove this we are going to examine a felonious scheme.

On the one hand, between the Republic of Moldova and Romania there are agreements that provide, among other things, for the import of goods without paying custom duties (“0” quota). On the other hand, between the Republic of Moldova and the CIS countries there have been concluded agreements, which provide for a “0” quota on the import of goods from these countries.

By using this situation, a business operator from the Republic of Moldova imports furniture of Romanian origin that is in demand on the Moldovan and the CIS countries markets at a “0” quota. Meanwhile, there are being issued, by means of corrupting employees of the relevant institutions, documents that confirm the Moldovan origin of the furniture, which later on is exported to the CIS countries, thus being exempted twice from paying customs duties.

It is difficult to counteract the phenomenon of cross-border criminal activity when there is evidence of organized crime and particularly corruption and protectionism. In this regard, it is worrisome that the employees of the Customs Department who are expected to exercise correctly and fully their professional functions, and to contribute to the counteraction of these serious crimes, are paid a salary of about 400 lei (30 USD), while the minimum consumption basket is about 1200 lei.

For the Republic of Moldova, the impact of smuggling as a phenomenon, is especially serious, taking into account the size of the country's budget in comparison with budgets of other countries, in particular of the neighboring Romania and the Ukraine. It is important to mention the internationalization of smuggling expressed in the organization and carrying out of criminal groups activities not only within the country, but also beyond its borders.

Thus, Moldova is part of the “**southern-eastern group**” – a group of states, which export poppy straw, Moldova being even one of the biggest suppliers in this regard. The share of this kind of smuggling in the overall smuggling volume increases. Among the reasons of this phenomenon, according to some sociological polls done in the CIS countries, are the following:

- economic and political instability specific for the current situation;
- insufficient material and technical endowment of appropriate institutions;
- discrepancy between the legislation and the activities of the law enforcement bodies in this field.

For the unification of the relevant provisions there can be mentioned several international convention and treaties in the field, such as:

- 1) Single Convention on Narcotic Drugs of 1961.
- 2) UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19.12.1988.
- 3) UN Resolution No. S – 17/2 adopted on the basis of the Special Committee Report at the eighteenth session.
- 4) Kiev Agreement of 21.X.1998 on cooperation between the ministries of interior affairs in combating traffic in narcotic drugs.

Based on these conventions the legislation of many states includes provisions that restrict trafficking of narcotic drugs and other substances of this group. Thus, the Penal Code of the Republic of Moldova, Article 75, paragraph II prohibits illegal trafficking of narcotic drugs, psychotropic, toxic, radioactive, poisoning, explosive substances, substances with strong effect and harmful wastes.

With a view to combating smuggling and to reveal and prevent cases of corruption of customs and fiscal control authorities, police bodies take constant measures directed towards the intensification of control bodies activities at the customs offices and the joint fiscal offices in order. For instance, during the year 2000 the interior ministry units

disclosed 192 cases of smuggling (+ 58,9% comparing to the same period of 1999), losses being estimated at about 16 million lei (the current exchange rate is 1 USD = 13,5 lei). Due to these actions, there have been compensated material prejudices in the amount of almost 11 million lei and confiscated goods worth of 3,41 million lei.

Among the goods confiscated by the economic-financial police we should mention:

- industrial goods – 8,3 million lei;
- coffee – 2 million lei;
- sugar – 1,2 million lei;
- timber – 371 thousand lei;
- diesel oil – 370 thousand lei;
- petrol – 265 thousand lei;
- alcohol – 176 thousand lei;
- cigarettes – 175 thousand lei;
- furniture – 175 thousand lei;
- leather products – 173 thousand lei.

Out of those 192 criminal cases, about 140 were brought before the court and the rest are either in the process of a preliminary examination, suspended or closed.

In the same period of time the economic-financial police issued 112 administrative reports on the basis of Article 161, paragraph 2 (violation of the rules of purchasing, storage, commercialization or sales of material valuables), Article 193 (violation of customs rules), Article 152, paragraph 10 (transportation, storage or commercialization of goods without excise-duty stamps) of the Code on administrative infringements. On the basis of these administrative reports there have been paid fines in the amount of 245 thousand lei and confiscated goods worth of 4 million lei. As a result of these administrative reports, there have been confiscated mainly excise goods:

- petrol – 158,5 thousand liters, worth of 771 thousand lei;
- diesel oil – 144,1 liters, worth of 552 thousand lei;
- alcohol – 44403 liters, worth of 1 664 thousand lei.
- Tobacco products - worth of 799,3 thousand lei.

Fighting illicit trafficking of goods is a major problem in the process of consolidation of the fiscal discipline in the state and is the responsibility of the law enforcement and control bodies. Recently, there has appeared an alarming tendency among the law enforcement bodies of closing cases sued on the basis of Article 75 of the PC (Smuggling). The main reason of such decisions is the interpretation of the provision “... ***or associated with the failure to declare or false declaration in the customs papers or other documents required for passing the border...***”. This fact needs the elaboration by the Customs Department of an instruction or regulation that would specify the procedure and order of declaring goods at the customs offices.

Activities of police bodies in the field of counteracting and preventing cases of smuggling and illicit trafficking of goods are not the most efficient ones due to the following reasons:

1. Gaps that exist in the regulation of the procedure of paying income taxes and afferent taxes at the import of goods and services by business operators at the border customs offices. The current procedure, according to which the Customs Department issues a “Transport docket” for bringing of goods into the customs territory with **the fulfillment of customs procedures within 72 hours** indirectly stimulates smuggling.
2. In accessing the Customs Department database in the process of documentation and accumulation of evidence in cases of smuggling and capture in flagrant delict of delinquents police bodies meet difficulties for different reasons, inclusively because the requested information is a commercial secret of business operators.
3. Employees of the ministry of home affairs, in the process of documentation and investigation, of preliminary inquires, etc. meet difficulties in accessing the border offices where the employees of the Customs Department and the Border Guard Department fulfill their activities, sometimes of illegal nature. This is a flagrant violation of the provisions of the Law on police and of the Law on inquiry and investigation activities.

Regarding the transportation across the country’s border of alcoholic products it is believed that for a more efficient fight against corruption, protection of the local market and reduction of smuggling there should be taken the following measures:

- prohibition of import on the territory of the Republic of Moldova of ethyl alcohol by business operators without an advance payment of excise-duties and afferent taxes (the calculation of income taxes will be done on the basis of the documents of origin and invoices for goods before the introduction of alcohol into the country);
- business operators that import ethyl alcohol for pharmaceutical purposes and for manufacturing perfumery items, exempted, according to Title III of the Fiscal Code, from paying indirect income taxes, have to pay excise-duties and afferent taxes before the introduction of alcohol into the country. The reimbursement of excise-duties and taxes will come from the State Budget after the local business operators confirm the production of the final merchandise.
- at the export of alcoholic products a resident business operator will be asked to present to the Customs Department of the Republic of Moldova copies of customs declarations of the importing country that prove the conformity of the assortment, the cost and the volume of delivery with the real one, thus excluding cases of adding false data into the accompanying documents and this way of the evasion from paying income taxes. Fiscal institutions will require documents that acknowledge the receipt and fiscal evidence of the exported goods by the resident business operator of the importing country.
- There should be undertaken measures with a view to establishing similar taxes for the import of oil-products and of other excise-duty goods applied in the whole country, inclusively in the transnistrian region, where the compulsory sums for the imported goods are lower (about 50% per 1 tone of petrol), the fact that stimulates illicit trafficking of

- these products through this region. Recently, the Parliament adopted the Law Nr. 461-XV “On the oil-products market” and the Government adopted the Decision Nr. 1027 of 02.10.2001 “On some measures of implementation of the Law on the oil-products market”. In this regard the ministry of home affairs elaborated a number of measures called to regulate the process of import, set up prices at retail sales adequate to the import prices of the oil-products, to combat smuggling and illicit trafficking of such products, fight against fiscal evasion and evasion from paying compulsory duties.

The aforementioned modifications will make the local business operators to declare goods (products) and to pay all income taxes, duties and other payments at the border customs offices, the fact that will positively contribute to the full collection of these duties into the State Budget. At the same time, it will give the possibility to check goods, to discover and prevent illicit trafficking and smuggling.

Another aspect of transborder crime is the illicit trafficking of human beings. The seriousness of this criminal activity lies in the fact that criminals accumulate huge amounts of money, violate states’ borders, contribute to the extension of the prostitution network, increase the number of persons that are not protected by the state and are used by criminal structures. The trafficked persons often hold forged identification documents, pretending to be citizens of other countries. For instance, the employees of the economic-financial police have put an end to the illegal activity of the top management of one firm, which via Odessa (the Ukraine) and Chisinau airports intended, by corrupting appropriate persons, to illicitly traffic groups of 5 – 7 citizens of the Republic of Moldova to Portugal for an illegal work or to practice prostitution.

## FINAL REMARKS

The criminal situation, inclusively in the field of combating cross-border crimes linked with corruption and protectionism are consequences of the following factors:

- failures to implement reforms and mistakes made in this process, which in their turn favored criminalization of the economy, accumulation of the shadow capital and the appearance of the organized crime and of a rapid social differentiation;
- inadequate legal basis for legal, control and supervision activities, personnel fluctuation, unsettled problems related to legal, technical, material and financial assistance;
- transparency of the state’s border, the fact that generated a free entrance and movement of criminal elements in the country, the involvement of Moldova into the sphere of influence of international drug dealers, traffickers of weapons, munitions, explosive materials, counterfeit money and the securities;
- activities of transnational and national communities using the territory, potential, resources and the citizens of Moldova in criminal interests;
- corruption of public servants of the law enforcement and control bodies, increase of abuses and violations of law;

- juridical nihilism of the population, imprinting into the masses' conscience of a stereotype of an illicit behavior, lack of confidence of the population in the ability of the law enforcement institutions to protect the interests of a person, of the society and the state;

In order to more efficiently fight against corruption we suggested:

- criminological expertise of every law, decree, decision of the Government in order to reveal conditions that can generate corruption and financial frauds;
- adoption of a law on confiscation of goods obtained by criminal ways;
- improvement of the legislation in the field of financial activities and of the modality of registering and activity of business operators;
- increasing responsibility for forgery of documents and public acts;
- presentation of declarations for transactions estimated at more than 10 thousand lei for juridical persons and at more than 5 thousand lei for individuals;
- elaboration and implementation of a common network of databases of the Fiscal Police, Customs Department, Chamber for Trade and Industry, Chamber for Licensing, Informational Technologies Department;
- creation of a database on persons and organizations that have been identified by law enforcement bodies as practicing illegal activities;
- coordination of efforts of the Moldovan law enforcement institutions with the international ones in the field of fighting against transborder crime;
- modification of the penal legislation and penal procedure legislation that would specify the reimbursement of money and material valuables from those public servants that take bribes.

## **The Operation of the Romania Border Police at the Eastern Border**

Major V.Niculescu, Romanian Border Police

The fundamental option of Romania's foreign policy to integrate into the European and Euro-Atlantic structure is for the Ministry of Home Affairs (the Main Frontier Police Inspectorate) the main direction of foreign relations, the fundamental component of the policy of building an appropriate image in the country and abroad.

Given this vision, the main strategic objective is to intensify the reform and modernize the Ministry of Home Affairs and its elements, this process being conditioned not only by this objective – European and Euro-Atlantic integration – but also by the need to fight successfully international crime and the ensuring of secure frontiers has an important role to play in this process.

The security of the national frontier, especially its Northern and Eastern segments, increased control supervision and improved management are the sine-qua-non conditions of success in fighting efficiently trans-frontier crime.

The need to secure Romania's State frontiers is conditioned by the development of trans-frontier crime, both as variety and complexity, the general direction being from the East to the West, by the internationalization of organized crime, as well as by the availability of conditions that encourage such phenomena – ongoing economic crisis, social, ethnical and religious conflicts, increased rate of terrorist activities in neighbouring countries, and general globalization.

Thus, the complexity and variety of crimes, the criminal pressure at the frontier and the need to fight crimes efficiently and to ensure measures to secure the State frontier at the same time make all State structures and bodies that have responsibilities related to State frontiers get involved actively in the process, in order to ensure integrated frontier management that complies with EU practices.

The reorganization of the Romanian Frontier Police has reached an advanced stage, its structure was changed during the first stage in 2000, aiming at reducing the number of subordination levels.

During 2001 was implemented the second stage of the reorganization program, its objective was to ensure optimal management at each frontier segment.

Besides, new legislation on the organization and operation of the Frontier Police and on the State frontier regime was adopted.

In addition, pursuant to the legislative reform and the change in the operational conditions, central and local bodies were adapted to meet requirements conditioned by recent changes. Efforts to increase the professional level of frontier services will continue by gradually replacing the military by qualified frontier police, at the same time the

informative aspect of their actions will increase, as well as the number of mobile units for prompt frontier interventions that are well trained and equipped for such missions.

Special attention is paid and will be paid to the cooperation between empowered institutions, as well as cooperation with similar entities in neighbouring countries, other EU members and candidate countries.

The main objective of the Romanian Frontier Police is the security of the Eastern and Northern frontiers; as these frontiers will become EU frontiers once Romania joins EU, the main goals are: efficient frontier control, frontier security and safety, compliance with the provisions of treaties, agreements, conventions concluded with neighbouring countries, as well as other countries, the use of *acquis communautaire* to ensure conditions needed to integrate into Europe.

If Romania joins EU, while the intentions of Yugoslavia regarding joining EU are not clear yet, the frontier between Moldova and Romania will become a EU frontier (2070.6 km long).

#### The Frontier between Moldova and Romania

The frontier is 681.3 km long and stretches from Cuzlau (Botosani County) to Gura Prutului (Galati County).

The frontier has seven points for frontier crossing (5 highway customs and 2 railway customs).

One Directorate and four County Inspectorates of the Romanian Frontier Police service this segment of the frontier.

The land in this area is a plateau, and the banks of River Prut have a meadow relief. The course of the Prut River is sinuous, there are a lot of windings that make surveillance from fixed spots close to the river quite difficult.

#### **Risks:**

- Organized illegal migration from Asia and Africa through Romania to Western European countries;
- Human trafficking for prostitution and illegal employment through criminal networks from Moldova that include citizens of other CIS countries;
- Smuggling with the support or the consent of the frontier services of the neighbouring countries;
- Organized smuggling of consumer goods, especially tobacco, spirits, coffee, food, weapons, ammunition, other forbidden goods;



- Frontier crimes, including drug, weapon, radioactive substances, patrimonial goods smuggling, given the high demand for such goods in the Western, Central, and Eastern European countries;
- Smuggling cars stolen by specialized organized crime;
- The entry to Romania of members of illegal groups from the CIS and the change of status of the criminal actions of such groups at frontier crossing and on the main transportation routes (robberies, burglaries, frauds, murders);
- Attempts to enter Romania with counterfeit passports or travel papers, especially by the citizens of Moldova, once the requirement regarding the entry to Romania by passport only was introduced;
- The unavailability of a bilateral legal framework at the Moldova-Romania frontier and the delay of negotiations regarding the development and implementation of normative acts regulating such issues.

The frontier with Moldova is the one through which individuals bring into the country agricultural goods, food, cigarettes and coffee by their own or rented cars, that also transported across the frontier several people who are the ones who, as a rule, market the goods, without intermediaries. The same is true for railway transport connecting Moldova and Romania.

The review of current operations shows a decrease of the number of attempts to enter Europe illegally by people from Asia and Africa through the Eastern frontiers, as international migration networks prefer safer routes: Turkey – Bulgaria – Romania – Hungary or Russia – Ukraine – Poland – Germany.

However, trafficking is a major issue. Available data show that a large number of people, especially young ladies from Moldova who have entered Romania illegally were trafficked through the frontier with Yugoslavia and Bulgaria to work as prostitutes in Turkey, Greece, and Italy.

Groups of 3-11 young women of ages ranging from 16 to 33 operated in areas close to the frontier crossing units Moravita – Vatin, Naidas – Kaludjelovo, Ylatitsa – Kusici, Socol – Vracev Gaj, Varadia – Socitsa.

Such women were trafficked from Chisinau, they entered Romania legally through Sculeni, Albisa or Oancea customs, were transited through Romania and entered illegally Yugoslavia.

Data were obtained that show that one of the most popular ways to organize illegal migration from Moldova to the West is to use travel agencies to get visas that would allow people to enter Western Europe as tourists, while the real intention was to violate the legislation on visa regimes.

It became possible due to the provisions of Romanian legislation that allowed for the transit through its frontiers by presenting an ID or passport, without any nominal record keeping, which made it difficult to identify Moldovan citizens involved in criminal activities.

During 2001, 463 people involved in human trafficking were identified: 116 pimps, 269 trafficked women, and 78 guides. People that were supposed to leave Romania illegally and practice prostitution in other countries came from Moldova (51.6%), Romania (36%), and Ukraine (12.2%).

These countries are both source countries and transit countries for groups of women trafficked for sexual exploitation in former Yugoslavia, Greece, Cyprus, Italy, the Netherlands, other EU members. Two situations are most common:

- Women leave the country well aware of the services they will be delivering. They negotiate service conditions, including financial terms;
- Girls/women sign contracts that seem genuine and state that they would be employed as baby-sitters, nurses, companions of elderly people, dancers, waitresses, etc.

From the legal point of view, the women in the first category are considered prostitutes, while the second – victims, irrespective of the country of destination. From the humane point of view, both categories are victims.

Romanian authorities have undertaken major efforts lately to establish an appropriate legal framework and necessary prevention measures in order to reduce the share of such phenomena. However, it is a long way to go and many joint actions at the regional and national level are needed in order to implement them in a well-coordinated manner, and obtain real control over the situation. Thus, international cooperation at the decisional and operational levels becomes critical.

As for re-admission agreements, the work on initiating, signing and updating them is ongoing. **The Agreement on Re-Admission** was signed by **Romania** and the **Republic of Moldova** at Bucharest on July 27, 2001, it was ratified by both parties and will come into force in early July of the year 2002. In order to implement the Agreement, the authorities of both countries must allow the entry of foreign citizens, including stateless persons, who have crossed illegally the frontier coming directly from their country or are illegal residents of the other party to the Agreement.

The availability and ratification of the Bilateral Inter-Governmental Agreement on Re-Admission is critical for securing the human flow between the two countries, and the compliance with its provisions should not be delayed.

## **Conclusions and recommendations**

The extension of the European Union towards East, being a positive process itself, shall be both beneficiary and baneful to the Republic of Moldova and Ukraine, two former soviet states neighboring with the new members of Schengen space (an later on of the EU). The implementation of Schengen border should result for these states, on a side, in raising of new problems and aggravating the existent ones and on the other side in generating positive trends in many problematic domains.

### **1. Positive aspects of the new Schengen border for Republic of Moldova, Ukraine and Romania**

- The implementation of Schengen, making inevitable toughening of the frontier regime with Romania, could result in decreasing of smuggling and border criminal activities on both Moldovan-Romanian and Ukrainian-Romanian borders, as well as in reducing the flow of illegal transit migrants. But the real situation will depend, finally, on the evolutions in the process of Transnistrian conflict settlement.
- The enlarged EU (with the new members from Central and Eastern Europe) could influence the increasing of the exports from Moldova (more than 50% estimated) and Ukraine to the Schengen area. The importance of Schengen area for Moldova's trade relations will significantly grow and in total terms being comparable with that of CIS countries.
- The EU internal changes, as well as the political changes in countries from Central and Eastern Europe made possible the international cross-border cooperation, for example through Euroregions.
- The gradual approach of the Republic of Moldova towards the European Union will consolidate the state and will accelerate the reorientation of Moldovan society towards a normal development, based on the practical implementation of the values of European civilization.
- If the process of Schengen implementation will be accomplished in close cooperation with Romania and other countries from the region, in frame of Stability Pact for South Eastern Europe cooperation, as well as other regional structures, Moldova can benefit from that, being included in the international cooperation on border management.

### **2. Negative aspects of the new Schengen border for Republic of Moldova, Romania and Ukraine**

- The implementation of the Schengen border between Republic of Moldova and Romania could determine the reorientation of the flows of migrants, drugs and arms to Ukraine, enhanced by the transparence of the Transnistrian sector of the Moldovan-Ukrainian border, what will disturb the social stability and national security of Ukraine. The Moldovan labor migrants could also increase the migration toward Russia and Ukraine.

- Strengthening the control of Moldovan-Romanian, Romanian-Ukrainian and Poland-Ukrainian borders, will result, for many people, in growing of the temptation of free circulation throughout Europe, and there will be more attempts to cross illegally the eastern Schengen border;
- The adoption of restrictive immigration and visa regime by the candidate states in EU for their neighbour countries will cause to the population of the last ones a lot of problems: starting with visiting their relatives to the destabilization of the society.
- The Schengen border will worsen the economic wellbeing of the people and regions in the proximity to the border. As a result of introducing the visa regime a considerable part of Moldovan active population, as well as a part of the Ukrainian population, will lost most of the possibilities to earn the income necessary to meet the challenges of the increasing costs of living.
- The deficit of Moldova's trade balance with Schengen States is expected to increase. In the situation when Schengen countries mostly import to Moldovan market, Moldova will become even more dependent on its eastern traditional exports markets, leaving less room for diversification, and subsequently making it more vulnerable to the fluctuations on those markets.
- The strict enforcement of the provisions of the Schengen agreement regarding the border regime will certainly facilitate (affect) the increase of existent disparities between the two parts of Europe, primarily in the social-economic and psychological aspects (feelings of frustration). The plenary conformation of Romania to the provisions of Schengen agreement will cause the restoration of a frontier similar to the one that existed prior to the declaration of independence of the Republic of Moldova.
- The exclusion from the new Europe could have a profound effect on political identities, on foreign and security policies, and on the progress of democratic and economic reforms of these countries
- There is a possibility, that European enlargement will encourage the formation of a closer security relationship among the excluded states, and a strengthening of the Commonwealth of Independent States or the new organization that will replace (substitute) it.
- Without comprehensive solutions that would address the related problems, these could create additional challenges to the security and stability of Republic of Moldova, Ukraine and Romania – which, in their turn, will generate risks for the broader European security.

Recommendations

***The key-problem consists in elaboration of common measures of the EU, its future members and new neighbors in order to minimize the negative effects of Schengen.***

**In this regard, is necessary to undertake the following measures:**

- Demarcation of the border with Ukraine and strengthening the control of the Moldovan central authorities' over the territory under the Central Government authorities.
- Strength the administrative capacity, material endowment of the state authorities, increase of the personnel, its institution pursuant the European standards.

- Create national databases comprising information on all entering persons. Exchange of information on migration between Ukraine, Moldova, Romania and CEE and the EU states could serve as an initial step towards development of such co-operation and creation of a single computerised database
- Regulate the “ghost-tourist agencies” activity. This should also interest the west-European states, because their embassies are issuing visas having contacts with these agencies.
- Support financially, including through sponsoring, the continuing of the campaign for prevention of the white slave traffic, trying to use also the sponsors’
- Sweeping change of the legislation regarding the aliens.
- Signing the bilateral Treaties of readmission of foreign citizens with states attractive for the Moldovan and Ukrainian immigrants.
- Provide a close collaboration between the neighboring states (for example by setting up common border crossing checkpoints) in combating the illegal migration and the outgoing infringements, excluding different policy techniques promoted in these countries and the lack of trust between these states’ authorities.
- Improving professionalism within the customs services, in particular by combating corruption, streamlining activities and developing effectiveness through improving procedures and organization of joint cross-border actions.

**The states from the Schengen region should undertake the following measures:**

- Provide assistance in the Moldova’s efforts in demarcation of the border with Ukraine.
- More efficient international support of the Moldavian initiative in setting up of the Moldovan-Ukrainian border, on the Transnistrian sector, joint checkpoints.
- Support the efforts undertaken by the Moldavian authorities for solving the Transnistrian conflict.
- Introduce at the Schengen border checkpoints of a considerable number of consular workers capable to manage the increasing volume of visa applications.
- Provide a tight co-ordination and collaboration between the consular services of the countries that adhered recently to the Schengen space and European Union, as well as the involvement of some important financial resources for the assurance of a high efficiency of the activity of the new consular offices.
- Provide the holding of the consultations of adequate governmental officials and joint working groups of experts from Ukraine, Moldova, Romania and adequate accession states and the EU, which will work out proposals for introduction of streamlined visa issuing procedures.
- Increase the co-operation with relevant EU agencies responsible for the implementation of the Schengen acquis and transfer of experience through twinning programs. Technical provisions for improving the efficacy of such a migration policy shall include modernisation of the border infrastructure, installation of adequate computer technology and personnel training.
- Implement new methods of granting visa (using mailing services, Internet etc).

- Increase the investments in the modernization of the technical infrastructure of the checkpoints at the border for a rapid crossing without creating difficulties of formal and psychological nature.
- Provide financial assistance for the campaign for prevention of the white slave traffic.
- Provide logistic assistance of the administrative structures of Moldova, Ukraine and Romania dealing with migration. Training of the personnel in conformity to the European standards.
- Support of the NGOs dealing with migration phenomenon. The latter are more efficient even with limited funds.
- To fix an extension of the categories of people with the legal right to be issued multiple Schengen visas for one year and with the right to travel freely during 6 months
- Reduce the cost of Schengen visas.